

AMENDED IN SENATE SEPTEMBER 15, 2008

AMENDED IN SENATE FEBRUARY 26, 2008

AMENDED IN SENATE SEPTEMBER 7, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1279

Introduced by ~~Assembly Member Coto~~ *Committee on Budget*

February 23, 2007

~~An act to amend Sections 8223 and 8450 of the Education Code, relating to child care.~~ *An act to amend Sections 8206.1, 8222, 8223, 8357, and 8447 of, and to add Section 8275.5 to, the Education Code, to amend Sections 9205, 17560, and 17706 of, and to amend, repeal, and add Sections 8807, 8808, 8810, and 8820 of, the Family Code, to amend Sections 1522, 1596.871, 11758.42, 11758.421, and 11758.46 of the Health and Safety Code, and to amend Sections 10082, 10823, 11320.32, 11402.6, 11453, 12201, 12305.82, 12317, 14021.6, 14124.93, and 18939 of, to add Sections 10080.5 and 10553.15 to, to add Chapter 10.1 (commencing with Section 15525) to Part 3 of Division 9 of, and to repeal Section 10083 of, the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1279, as amended, ~~Coto~~ *Committee on Budget*. ~~Child care providers.~~ *Human services.*

The Child Care and Development Services Act, administered by the State Department of Education, provides that children up to 13 years

of age are eligible, with certain requirements, for child care and development services. Existing law provides for child care alternative payment programs, the purpose of which is to provide for parental choice in child care. Under existing law, payments by alternative payment programs to licensed child care providers cannot exceed the applicable market rate ceiling. Existing law requires an alternative payment program to reimburse a child care provider in accordance with an annual market survey, to be conducted by an entity contracting with the department, at a rate not to exceed ceilings prescribed by statute.

Existing law contains requirements governing the provision of child care services to recipients of the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Under these provisions, the above-described reimbursement mechanism applicable to the alternative payment programs is also used for providers of child care to CalWORKs recipients.

This bill would, instead, require, commencing March 1, 2009, the regional market rate ceilings to be established at the 85th percentile of the 2007 regional market rate survey for that region, and would make conforming changes. The bill would require the market rate surveys to be conducted on a biennial rather than annual basis. The bill would prohibit a family receiving CalWORKs cash aid from being charged a family fee.

Existing law requires reimbursement for alternative payment programs to include the cost of child care, plus administrative and support services. Under existing law, the total cost for administrative and support services is not permitted to exceed 23.4567% of the direct cost of care payments to child care providers.

This bill would instead provide that the administrative and support services costs would not be permitted to exceed 19% of the total contract amount.

Existing law requires the Superintendent of Public Instruction to collaborate with the Secretary for Education and the Secretary of Health and Human Services, with the advice and assistance of the Child Development Programs Advisory Committee, in the development of the state plan required pursuant to the federal Child Care and Development Fund, prior to submitting or reporting on that plan to the federal Secretary of Health and Human Services.

This bill would require the State Department of Education to develop an expenditure plan, the Child Care Development Fund (CCDF) Plan

that sets forth the final priorities for child care, as specified. The bill would require the department to release a draft of the CCDF Plan by February 1 of the year the plan is due to the federal government, and to commence a 30-day comment period that would include at least one hearing and the opportunity for written comments. The bill would require the department to provide the revised CCDF Plan to designated committees of the Legislature, prior to the May budget revisions.

This bill would require the State Department of Education to promote full utilization of child care and development funds and match available unused funds with identified service needs. The bill would require the department to arrange interagency adjustments between different contractors with the same type of contract under specified circumstances.

Existing law governs independent adoptions, which are defined to mean adoptions in which neither the State Department of Social Services nor an agency licensed by that department is a party to or joins in the adoption petition. Existing law defines an adoption service provider and a delegated county adoption agency for purposes of these provisions and sets forth the duties of these entities with respect to independent adoptions. Among other duties, an adoption service provider advises each birth parent of his or her rights and, if it is desired, provides counseling. In addition, existing law requires the department or the delegated county adoption agency to investigate proposed adoptions, accept the consent of and information provided by birth parents to the adoption, and file specified reports with the court.

Existing law governing independent adoptions authorizes certain persons to adopt a child by filing a petition, pursuant to provisions, as specified, including interviews by the department of the petitioners and all persons from whom consent is required and whose addresses are known. When a petition for the adoption of a child is filed under the provisions governing independent adoptions, existing law requires the petitioner to pay a nonrefundable fee to the department or the delegated county adoption agency for the cost of investigating the adoption petition.

Existing law prescribes the use of the revenues produced by the fees collected and authorizes the department or the delegated county adoption agency to waive or reduce those fees under certain conditions.

This bill, commencing October 1, 2008, would revise the time frame for interviews in an independent adoption. It would also revise the provision requiring the payment of a fee in connection with an adoption

petition, as described above, to require 50% of the fee to be paid at the time the petition is filed with the court, and the balance to be paid no later than a date determined by the department or delegated county adoption agency. The bill would also increase the applicable fee amounts, and revise related provisions with respect to investigative reports by the department and delegated county adoption agencies, and appeals by birth parents or petitioners. The bill would also revise the provisions authorizing the department or the delegated county adoption agency to waive or reduce the fees associated with filing the adoption petition, to delete the department's authority to waive the fee in its entirety, and to limit the amount to which the fee may be reduced, to \$500, if the prospective adoptive parents are very low income.

This bill would authorize the State Department of Social Services to implement the provisions of the bill relating to independent adoptions by all county letters, pending the adoption of emergency regulations.

Existing law contains various provisions, which became effective January 1, 2007, relating to the disclosure of personal information between adoptees and their biological siblings.

This bill would delay implementation of the above provisions until July 1, 2010. The bill would declare the intent of the Legislature that counties already implementing some or all of these provisions continue to do so, to the extent possible.

This bill would require the State Department of Social Services to meet with stakeholders prior to legislative subcommittee hearings in 2009 to determine ways that the process for the Independent Adoptions Program can be simplified and streamlined, and provide an update on those discussions during the 2009 subcommittee hearings, as specified. The bill would require the department to provide an update during the 2009 legislative subcommittee hearings regarding the degree to which fee collections have improved as a result of the statutory changes made by the bill.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program under which, through a combination of state and county funds and federal funds received through the TANF program, each county provides cash assistance and other benefits to qualified low-income families.

Existing law requires the Department of Child Support Services to create a program establishing an arrears collection enhancement

process, until July 1, 2008, pursuant to which the department may accept offers in compromise of child support arrears and accrued interest owed to the state for reimbursement of aid paid under the CalWORKs program. Under existing law, the Director of Child Support Services is authorized to delegate to the administrator of a local child support agency the authority to compromise child support arrears, up to \$5,000, as specified.

This bill would revise the arrears collection enhancement process by, among other things, designating it as a compromise of arrears program, and revising the powers and duties of the director with respect to the operation of the program. The bill would require the director to allow a local child support agency administrator to compromise an amount of child support up to \$5,000, and would permit the director to delegate additional authority to compromise up to an amount determined by the director to support the effective administration of the program. This bill would also eliminate related consultation and reporting requirements. The bill would eliminate the termination date of the program extending it indefinitely, thereby increasing county duties and imposing a state-mandated local program.

Existing law requires the Department of Child Support Services, beginning July 1, 2000, to pay to each county a child support incentive for child support collections. Additionally, effective July 1, 2000, existing law provides that the 10 counties with the best performance standards shall receive an additional 5% of the state's share of the counties' collections that are used to reduce or repay aid that is paid under the CalWORKs program. Existing law requires the counties to use the additional funds for specified child support related activities. Existing law suspends the payment of this additional 5% for the 2002–03 to 2007–08, inclusive, fiscal years.

This bill would extend the suspension of the 5% payment through the 2011–12 fiscal year.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, and under which qualified low-income persons receive health care services. Existing law requires the Department of Child Support Services to provide payments to the local child support agency of \$50 per case for obtaining 3rd-party health coverage or insurance of beneficiaries, to the extent that funds are appropriated in the Budget Act. Under existing law, these payments are suspended for the 2003–04 to 2007–08, inclusive, fiscal years.

This bill would extend the suspension of payments to local child support agencies through the 2011–12 fiscal year.

This bill would require the Department of Child Support Services to provide more comprehensive data from the state hearing pilot project that demonstrates that the pilot has reduced reduce state hearings, a breakdown of how the pilot’s revised hearing process results in the estimated savings to state hearing costs, and trailer bill language to codify the new hearing process.

Under existing law, the State Department of Social Services regulates the licensure and operation of community care facilities, residential care facilities for the elderly, child day care centers, and family day care homes. Existing law requires the department to conduct annual unannounced visits to these facilities under designated circumstances. Existing law further requires the department to conduct annual unannounced visits to no less than 20% of the remaining facilities, based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year’s by 10%, existing law requires the department to increase the random sample by 10% the following year for years after the 2007–08 fiscal year, and authorizes the department to request additional resources for this purpose.

This bill would suspend the requirement that the department increase these random samples by 10% for the 2008–09 and 2009–10 fiscal years, and would require the department to submit trailer bill language to the Legislature on or before February 1, 2010, to reflect appropriate indicators to trigger an increase in unannounced random sample visits, as specified.

Existing law requires a criminal record check of applicants for a license, special permit, or certificate of approval for a foster family home or certified family home, and other persons, including nonclients who reside in those homes and staff and employees. Existing law imposes similar requirements with respect to issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a child care center or family child care home. Under these provisions, an application is required to be denied, unless the Director of Social Services grants an exemption, if it is found that the applicant or any of the other designated persons has been convicted of prescribed crimes. Existing law prohibits the Department of Justice or the State Department of Social Services, except during specified fiscal years, from charging a fee for fingerprinting an applicant to provide foster

care or child care services to 6 or fewer children or to obtain a family day care license in connection with these criminal record check provisions.

This bill would extend the exemption from the prohibition against charging a fee for fingerprinting applicants, through the 2008–09 and 2009–10 fiscal years.

Existing law requires the State Department of Alcohol and Drug Programs to establish a narcotic replacement therapy dosing fee for methadone and levoalphacetylmethadol (LAAM), and requires narcotic treatment programs to be reimbursed for the ingredient costs of methadone and LAAM dispensed to beneficiaries under the Medi-Cal program. Existing law requires reimbursement for narcotic replacement therapy dosing and ancillary services to be based on a per capita uniform monthly reimbursement rate for each individual patient, as established by the department, in consultation with the State Department of Health Care Services.

This bill would, instead, require this rate to be determined on a daily rather than monthly basis, as specified, and would make various conforming changes.

Existing law makes the Department of Child Support Services, through the Franchise Tax Board as its agent, responsible for procuring, developing, implementing, and maintaining the operation of the California Child Support Automation System in all California counties. Existing law gives the Franchise Tax Board various responsibilities in this regard.

This bill would transfer all duties and authority of the Franchise Tax Board with respect to the California Child Support Automation System to the Department of Child Support Services, as specified. It would, however, permit the department to enter into an interagency agreement with the board to continue to have the board perform any services necessary for support of the system, on January 1, 2009, or upon federal notification that the California Child Support Automation System is implemented in all jurisdictions, whichever is later.

Existing law authorizes the Director of Social Services to enter into an agreement, in accordance with specified federal law, with any California Indian tribe or any out-of-state Indian tribe regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings. Under existing law, these agreements include provision of child welfare services and Aid to Families with Dependent Children-Foster Care (AFDC-FC) payments, as specified.

This bill, in addition, would authorize the director to provide funding to Indian health clinics to provide substance abuse and mental health services, and other related services authorized under the CalWORKs program to CalWORKs applicants and recipients and Tribal TANF applicants and recipients living in California.

Existing law requires the Office of Systems Integration in the State Department of Social Services to implement a statewide automated welfare system for 6 specified public assistance programs, and requires statewide implementation of the system to be achieved through 4 designated county consortia.

This bill, notwithstanding existing requirements, would require the office to migrate the 35 counties that currently use the Interim Statewide Automated Welfare System into the C-IV system, in accordance with a specified timeline.

Existing law requires the State Department of Social Services to administer a voluntary Temporary Assistance Program (TAP), to provide cash assistance and other benefits to specified current and future CalWORKs recipients who meet the exemption criteria for participation in welfare-to-work activities, and are not single parents who have a child under one year of age. Existing law requires that the TAP commence on or before April 1, 2009.

This bill would postpone initial implementation of the TAP to April 1, 2010.

Existing law establishes the schedule of maximum aid payments under the CalWORKs program, and provides for the annual adjustment of these payments, as specified. Existing law provides that the adjustment to the maximum aid payment would be effective October 1, 2008, for the 2008–09 fiscal year, and would take effect on July 1, 2009, for the 2009–10 fiscal year.

This bill would delete the provisions establishing the effective dates for the adjustment to the maximum aid payment in the 2008–09 and 2009–10 fiscal years, and instead would suspend the adjustment in the 2008–09 fiscal year.

Existing law, under the AFDC-FC program, requires foster care providers licensed as group homes to have rates established by the State Department of Social Services only if the group home is organized and operated on a nonprofit basis, except as specified. Existing law permits certain children with developmental disabilities or other special needs to be placed in for-profit facilities, under specified conditions.

This bill would delay implementation of the provisions authorizing placement of those children in for-profit facilities, until July 1, 2010.

Existing law provides for the State Supplementary Program for the Aged, Blind and Disabled (SSP), which requires the State Department of Social Services to contract with the United States Secretary of Health and Human Services to make payments to SSP recipients to supplement supplemental security income (SSI) payments made available pursuant to the federal Social Security Act. Under existing law, benefit payments under the SSP program are calculated by establishing the maximum level of nonexempt income and federal SSI and state SSP benefits for each category of eligible recipient. The state SSP payment is the amount, when added to the nonexempt income and SSI benefits available to the recipient, which would be required to provide the maximum benefit payment.

Existing state law provides, except in certain calendar years, for the annual adjustment of the total level of combined state and federal benefits as established by statutory schedule to reflect changes in the cost of living, as defined. Existing law provides that, for the 2008 calendar year, the annual adjustment would be effective October 1, 2008, and commencing with the 2009 calendar year and thereafter, the annual adjustment would be effective June 1 of that calendar year, and further provides that in any calendar year in which no cost-of-living adjustment is made to the payment schedules, there shall be a pass along of any cost-of-living increases in federal SSI benefits.

This bill would, instead, suspend the annual cost-of-living adjustment for the 2008 and 2009 calendar years.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Existing law authorizes the State Department of Health Care Services to investigate fraud in the provision or receipt of supportive services, and requires counties to refer instances of suspected fraud to that department for investigation.

This bill, notwithstanding any other provision of law, would authorize a county to investigate suspected fraud in connection with the provision or receipt of supportive services, with respect to an overpayment of \$500 or less.

Under existing law, personal care services provided to a qualified individual who is eligible for Medi-Cal benefits are a Medi-Cal covered benefit. Personal care services are also a covered benefit under the In-Home Supportive Services program.

Existing law requires the State Department of Social Services to procure and implement a new Case Management Information and Payrolling System (CMIPS) for the IHSS program and Personal Care Services Program, establishes the components of the new system, and requires the state to begin a fair and open competitive procurement for the new system by August 31, 2004.

This bill would additionally require the new CMIPS to strengthen fraud prevention and detection, as well as to reduce overpayments. The bill would provide that program requirements shall include, but shall not be limited to, the ability to readily identify out-of-state providers, recipient hospital stays that are 5 days or longer, and excessive hours paid to a single provider, and to match recipient information with death reports. The bill would provide that this functionality shall be available by April 1, 2010, and implemented statewide by July 1, 2011.

Existing law authorizes the State Department of Alcohol and Drug Programs to enter into a Medi-Cal Drug Treatment Program contract with each county for the provision of services within the county service area. Existing law requires the State Department of Alcohol and Drug Programs to prepare amendments to the Medi-Cal state plan to obtain reimbursement for Drug Medi-Cal services and provides for the computation of the maximum allowable rates for the Medi-Cal Drug Treatment Program.

This bill would make technical revisions to the provisions relating to the Medi-Cal Drug Treatment Program reimbursement rates, as specified.

Existing law provides for the Food Stamp Program, under which food stamps are allocated by each county in accordance with federal requirements. Under existing law, the Food Stamp Program is administered at the state level by the State Department of Social Services.

This bill would require the State Department of Social Services to establish a Work Incentive Nutritional Supplement (WINS) program,

under which each county would be required to provide a \$40 monthly additional food assistance benefit for each eligible food stamp household, as defined. The bill would require the state to pay the counties 100% of the cost of WINS benefits, using funds that qualify for the state's TANF maintenance of effort requirements, as specified. The bill would prohibit WINS benefits from being paid before October 1, 2009, and would require full implementation of the program on or before April 1, 2010.

The bill would authorize the director to implement the WINS program by all-county letters, pending the adoption of emergency regulations.

The bill would require the department to convene a workgroup on or before December 1, 2008, comprised of designated representatives, to consider the progress of the WINS automation effort in tandem with a pre-assistance employment readiness system (PAERS) program and any other program options that may provide offsetting benefits to the caseload reduction credit in the CalWORKs program. The bill would prohibit full implementation of the WINS program until the workgroup is convened.

By requiring counties to perform additional duties, this bill would impose a state-mandated local program.

Existing law requires the State Department of Social Services to establish and supervise a county- or county consortia-administered program to provide cash assistance to aged, blind, and disabled legal immigrants who are not citizens and who successfully complete an application process. Existing law requires any person found by the department to be eligible for federal Supplemental Security Income (SSI) benefits to be required to apply for those benefits. Existing law, until July 1, 2009, requires the department to require counties with a base caseload of 70 or more, and to encourage other counties, to establish an advocacy program to assist applicants and recipients of aid under these provisions in applying for SSI benefits, as provided.

This bill would extend operation of the advocacy program to July 1, 2011. By extending county duties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~(1) The Child Care and Development Services Act provides child care and development services to children from birth to 13 years of age and their parents through full- and part-time programs. Existing law requires that reimbursement for alternative payment programs include the cost of child care paid to child care providers plus the administrative and support services costs of the alternative payment program. Existing law limits the total cost for administration and support services to 23.4567% of the direct cost of care payments to child care providers.~~

~~This bill would, instead, limit the total cost for administration and support services to 20% of the total contract amount, as defined.~~

~~(2) Existing law encourages child development contractors to develop and maintain a reserve within the child development fund derived from earned but expended funds. Existing law authorizes child development contractors to retain a reserve fund for alternative payment model and certificate child care contracts not to exceed the greater of 2% of the sum of the parts of each contract to which the contractor is a party or \$1,000.~~

~~This bill would, instead, limit the reserve fund for alternative payment model and certificate child care contracts to 3% of the sum of the parts of each contract to which the contractor is a party.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~^{yes}.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8206.1 of the Education Code is amended
- 2 to read:
- 3 8206.1. (a) The Superintendent of Public Instruction shall
- 4 collaborate with the Secretary for Education and the Secretary of
- 5 Health and Human Services, with the advice and assistance of the
- 6 Child Development Programs Advisory Committee, in the
- 7 development of the state plan required pursuant to the federal Child
- 8 Care and Development Fund, prior to submitting or reporting on
- 9 that plan to the federal Secretary of Health and Human Services.

1 (b) (1) For purposes of this section, “Child Care and
2 Development Fund” has the same meaning as in Section 98.2 of
3 Title 45 of the Code of Federal Regulations.

4 (2) For the purposes of this section, “collaborate” means to
5 cooperate with and to consult with.

6 (c) *As required by federal law, the State Department of*
7 *Education shall develop an expenditure plan that sets forth the*
8 *final priorities for child care. The department shall coordinate*
9 *with the State Department of Social Services, the California*
10 *Children and Families Commission, and other stakeholders,*
11 *including the Department of Finance, to develop the Child Care*
12 *and Development Fund (CCDF) Plan. On or before February 1*
13 *of the year that the CCDF Plan is due to the federal government,*
14 *the department shall release a draft of the plan. The department*
15 *shall then commence a 30-day comment period that shall include*
16 *at least one hearing and the opportunity for written comments.*
17 *Prior to the May budget revision, the department shall provide*
18 *the revised CCDF Plan to the chairs of the committees of each*
19 *house of the Legislature that consider appropriations, and shall*
20 *provide a report on the plan to the committees in each house of*
21 *the Legislature that consider the annual Budget Act appropriation.*

22 *SEC. 2. Section 8222 of the Education Code is amended to*
23 *read:*

24 8222. (a) Payments made by alternative payment programs
25 shall not exceed the applicable market rate ceiling. Alternative
26 payment programs may expend more than the standard
27 reimbursement rate for a particular child. However, the aggregate
28 payments for services purchased by the agency during the contract
29 year shall not exceed the assigned reimbursable amount as
30 established by the contract for the year. No agency may make
31 payments in excess of the rate charged to full-cost families. This
32 section does not preclude alternative payment programs from using
33 the average daily enrollment adjustment factor for children with
34 exceptional needs as provided in Section 8265.5.

35 (b) Alternative payment programs shall reimburse licensed child
36 care providers in accordance with ~~an annual~~ *a biennial* market rate
37 survey pursuant to Section 8447, at a rate not to exceed the ceilings
38 established pursuant to ~~statute~~ *Section 8357.*

39 (c) An alternative payment program shall reimburse a licensed
40 provider for child care of a subsidized child based on the rate

1 charged by the provider to nonsubsidized families, if any, for the
 2 same services, or the rates established by the provider for
 3 prospective nonsubsidized families. A licensed child care provider
 4 shall submit to the alternative payment program a copy of the
 5 provider's rate sheet listing the rates charged, and the provider's
 6 discount or scholarship policies, if any, along with a statement
 7 signed by the provider confirming that the rates charged for a
 8 subsidized child are equal to or less than the rates charged for a
 9 nonsubsidized child.

10 (d) An alternative payment program shall maintain a copy of
 11 the rate sheet and the confirmation statement.

12 (e) A licensed child care provider shall submit to the local
 13 resource and referral agency a copy of the provider's rate sheet
 14 listing rates charged, and the provider's discount or scholarship
 15 policies, if any, and shall self-certify that the information is correct.

16 (f) Each licensed child care provider may alter rate levels for
 17 subsidized children once per year and shall provide the alternative
 18 payment program and resource and referral agency with the updated
 19 information pursuant to subdivisions (c) and (e), to reflect any
 20 changes.

21 (g) A licensed child care provider shall post in a prominent
 22 location adjacent to the provider's license at the child care facility
 23 the provider's rates and discounts or scholarship policies, if any.

24 (h) An alternative payment program shall verify provider rates
 25 *no less frequently than* once a year by randomly selecting 10
 26 percent of licensed child care providers serving subsidized families.
 27 The purpose of this verification process is to confirm that rates
 28 reported to the alternative payment programs reasonably correspond
 29 to those reported to the resource and referral agency and the rates
 30 actually charged to nonsubsidized families for equivalent levels
 31 of services. It is the intent of the Legislature that the privacy of
 32 nonsubsidized families shall be protected in implementing this
 33 subdivision.

34 (i) The department shall develop regulations for addressing
 35 discrepancies in the provider rate levels identified through the rate
 36 verification process in subdivision (h).

37 *SEC. 3. Section 8223 of the Education Code is amended to*
 38 *read:*

39 8223. The reimbursement for alternative payment programs
 40 shall include the cost of child care paid to child care providers plus

1 the administrative and support services costs of the alternative
2 payment program. The total cost for administration and support
3 services shall not exceed an amount equal to ~~23.4567~~ 19 percent
4 of the ~~direct cost of care payments to child care providers~~ total
5 contract amount. The administrative costs shall not exceed the
6 costs allowable for administration under federal requirements.

7 *SEC. 4. Section 8275.5 is added to the Education Code, to*
8 *read:*

9 *8275.5. The State Department of Education shall promote full*
10 *utilization of child care and development funds and match available*
11 *unused funds with identified service needs. Notwithstanding the*
12 *requirements of Part 2 (commencing with Section 10100) of*
13 *Division 2 of the Public Contract Code, the department shall*
14 *arrange interagency adjustments between different contractors*
15 *with the same type of contract when both agencies mutually agree*
16 *to a temporary transfer of funds for the balance of the fiscal year.*

17 *SEC. 5. Section 8357 of the Education Code is amended to*
18 *read:*

19 8357. (a) The cost of child care services provided under this
20 article shall be governed by regional market rates. Recipients of
21 child care services provided pursuant to this article shall be allowed
22 to choose the child care services of licensed child care providers
23 or child care providers who are, by law, not required to be licensed,
24 and the cost of that child care shall be reimbursed by counties or
25 agencies that contract with the State Department of Education if
26 the cost is within the regional market rate. For purposes of this
27 section, “regional market rate” means care costing no more than
28 1.5 market standard deviations above the mean cost of care for
29 that region. *Beginning March 1, 2009, the regional market rate*
30 *ceilings shall be established at the 85th percentile of the 2007*
31 *regional market rate survey for that region. For the 2008–09 and*
32 *2009–10 fiscal years, the 85th percentile ceilings of the 2007*
33 *regional market rate survey for that region shall remain in effect.*

34 (b) Reimbursement to child care providers shall not exceed the
35 fee charged to private clients for the same service.

36 (c) Reimbursement shall not be made for child care services
37 when care is provided by parents, legal guardians, or members of
38 the assistance unit.

1 (d) A child care provider located on an Indian reservation or
2 rancheria and exempted from state licensing requirements shall
3 meet applicable tribal standards.

4 (e) For purposes of this section, “reimbursement” means a direct
5 payment to the provider of child care services, including license
6 exempt-providers. If care is provided in the home of the recipient,
7 payment may be made to the parent as the employer, and the parent
8 shall be informed of his or her concomitant legal and financial
9 reporting requirements. To allow time for the development of the
10 administrative systems necessary to issue direct payments to
11 providers, for a period not to exceed six months from the effective
12 date of this article, a county or an alternative payment agency
13 contracting with the State Department of Education may reimburse
14 the cost of child care services through a direct payment to a
15 recipient of aid rather than to the child care provider.

16 (f) Counties and alternative payment programs shall not be
17 bound by the rate limits described in subdivision (a) when there
18 are, in the region, no more than two child care providers of the
19 type needed by the recipient of child care services provided under
20 this article.

21 *SEC. 6. Section 8447 of the Education Code is amended to*
22 *read:*

23 8447. (a) The Legislature hereby finds and declares that greater
24 efficiencies may be achieved in the execution of state subsidized
25 child care and development program contracts with public and
26 private agencies by the timely approval of contract provisions by
27 the Department of Finance, the Department of General Services,
28 and the State Department of Education and by authorizing the State
29 Department of Education to establish a multiyear application,
30 contract expenditure, and service review as may be necessary to
31 provide timely service while preserving audit and oversight
32 functions to protect the public welfare.

33 (b) (1) The Department of Finance and the Department of
34 General Services shall approve or disapprove annual contract
35 funding terms and conditions, including both family fee schedules
36 and regional market rate schedules that are required to be adhered
37 to by contract, and contract face sheets submitted by the State
38 Department of Education not more than 30 working days from the
39 date of submission, unless unresolved conflicts remain between
40 the Department of Finance, the State Department of Education,

1 and the Department of General Services. The State Department of
2 Education shall resolve conflicts within an additional 30 working
3 day time period. Contracts and funding terms and conditions shall
4 be issued to child care contractors no later than June 1. Applications
5 for new child care funding shall be issued not more than 45
6 working days after the effective date of authorized new allocations
7 of child care moneys.

8 (2) Notwithstanding paragraph (1), for the ~~2006-07~~ 2008-09
9 fiscal year, the State Department of Education shall implement the
10 regional market rate schedules based upon the county aggregates,
11 as determined by the Regional Market survey conducted in ~~2005~~.
12 ~~The regional market rate schedules shall be implemented no later~~
13 ~~than 90 days after the enactment of the 2006 Budget Act 2007.~~

14 (3) Notwithstanding paragraph (1), for the 2006-07 fiscal year,
15 the State Department of Education shall update the family fee
16 schedules by family size, based on the 2005 state median income
17 survey data for a family of four. The family fee schedule used
18 during the 2005-06 fiscal year shall remain in effect. However,
19 the department shall adjust the family fee schedule for families
20 that are newly eligible to receive or will continue to receive services
21 under the new income eligibility limits. The family fees shall not
22 exceed 10 percent of the family's monthly income.

23 (4) It is the intent of the Legislature to fully fund the third stage
24 of child care for *former* CalWORKs recipients.

25 (c) With respect to subdivision (b), it is the intent of the
26 Legislature that the Department of Finance annually review
27 contract funding terms and conditions for the primary purpose of
28 ensuring consistency between child care contracts and the child
29 care budget. This review, shall include evaluating any proposed
30 changes to contract language or other fiscal documents to which
31 the contractor is required to adhere, including those changes to
32 terms or conditions that authorize higher reimbursement rates, that
33 modify related adjustment factors, that modify administrative or
34 other service allowances, or that diminish fee revenues otherwise
35 available for services, to determine if the change is necessary or
36 has the potential effect of reducing the number of full-time
37 equivalent children that may be served.

38 (d) Alternative payment child care systems, as set forth in Article
39 3 (commencing with Section 8220), shall be subject to the rates
40 established in the Regional Market Rate Survey of California Child

1 Care Providers for provider payments. The State Department of
2 Education shall contract to conduct and complete ~~the annual a~~
3 Regional Market Rate Survey *no more frequently than once every*
4 *two years, consistent with federal regulations*, with a goal of
5 completion by March 1.

6 (e) By March 1 of each year, the Department of Finance shall
7 provide to the State Department of Education the State Median
8 Income amount for a four-person household in California based
9 on the best available data. The State Department of Education shall
10 adjust its fee schedule for child care providers to reflect this
11 updated state median income.

12 (f) Notwithstanding the June 1 date specified in subdivision (b),
13 changes to the regional market rate schedules and fee schedules
14 may be made at any other time to reflect the availability of accurate
15 data necessary for their completion, provided these documents
16 receive the approval of the Department of Finance. The Department
17 of Finance shall review the changes within 30 working days of
18 submission and the State Department of Education shall resolve
19 conflicts within an additional 30 working day period. Contractors
20 shall be given adequate notice prior to the effective date of the
21 approved schedules. It is the intent of the Legislature that contracts
22 for services not be delayed by the timing of the availability of
23 accurate data needed to update these schedules.

24 (g) *Notwithstanding any other provision of law, no family*
25 *receiving CalWORKs cash aid may be charged a family fee.*

26 *SEC. 7. Section 8807 of the Family Code is amended to read:*

27 8807. (a) Except as provided in subdivisions (b) and (c), within
28 180 days after the filing of the petition, the department or delegated
29 county adoption agency shall investigate the proposed independent
30 adoption and submit to the court a full report of the facts disclosed
31 by its inquiry with a recommendation regarding the granting of
32 the petition.

33 (b) If the investigation establishes that there is a serious question
34 concerning the suitability of the petitioners or the care provided
35 the child or the availability of the consent to adoption, the report
36 shall be filed immediately.

37 (c) In its discretion, the court may allow additional time for the
38 filing of the report, after at least five days' notice to the petitioner
39 or petitioners and an opportunity for the petitioner or petitioners
40 to be heard with respect to the request for additional time.

1 (d) If a petitioner is a resident of a state other than California,
2 an updated and current homestudy report, conducted and approved
3 by a licensed adoption agency or other authorized resource in the
4 state in which the petitioner resides, shall be reviewed and endorsed
5 by the department or delegated county adoption agency, if the
6 standards and criteria established for a homestudy report in the
7 other state are substantially commensurate with the homestudy
8 standards and criteria established in California adoption regulations.

9 (e) *This section shall remain in effect only until October 1, 2008,*
10 *and as of that date is repealed.*

11 *SEC. 8. Section 8807 is added to the Family Code, to read:*

12 8807. (a) *Except as provided in subdivisions (b) and (c), within*
13 *180 days after receiving 50 percent of the fee, the department or*
14 *delegated county adoption agency shall investigate the proposed*
15 *independent adoption and, after the remaining balance of the fee*
16 *is paid, submit to the court a full report of the facts disclosed by*
17 *its inquiry with a recommendation regarding the granting of the*
18 *petition.*

19 (b) *If the investigation establishes that there is a serious question*
20 *concerning the suitability of the petitioners, the care provided to*
21 *the child, or the availability of the consent to adoption, the report*
22 *shall be filed immediately.*

23 (c) *In its discretion, the court may allow additional time for the*
24 *filing of the report, after at least five days' notice to the petitioner*
25 *or petitioners and an opportunity for the petitioner or petitioners*
26 *to be heard with respect to the request for additional time.*

27 (d) *If a petitioner is a resident of a state other than California,*
28 *an updated and current homestudy report, conducted and approved*
29 *by a licensed adoption agency or other authorized resource in the*
30 *state in which the petitioner resides, shall be reviewed and*
31 *endorsed by the department or delegated county adoption agency,*
32 *if the standards and criteria established for a homestudy report*
33 *in the other state are substantially commensurate with the*
34 *homestudy standards and criteria established in California*
35 *adoption regulations.*

36 (e) *This section shall become operative on October 1, 2008.*

37 *SEC. 9. Section 8808 of the Family Code is amended to read:*

38 8808. *The department or delegated county adoption agency*
39 *shall interview the petitioners and all persons from whom consent*
40 *is required and whose addresses are known as soon as possible*

1 and, in the case of residents of this state, within 45 working days,
2 excluding legal holidays, after the filing of the adoption petition.
3 The interview with the placing parent or parents shall include, but
4 not be limited to, discussion of any concerns or problems that the
5 parent has with the placement and, if the placing parent was not
6 interviewed as provided in Section 8801.7, the content required
7 in that interview. At the interview, the agency shall give the parent
8 an opportunity to sign either a statement revoking the consent, or
9 a waiver of the right to revoke consent, as provided in Section
10 8814.5. In order to facilitate these interviews, at the same time the
11 petition is filed with the court, the petitioners shall file with the
12 district office of the department or with the delegated county
13 adoption agency responsible for the investigation of the adoption,
14 a copy of the petition together with the names, addresses, and
15 telephone numbers of all parties to be interviewed, if known.

16 This section shall ~~become operative on January 1, 1995~~ remain
17 in effect only until October 1, 2008, and as of that date is repealed.

18 SEC. 10. Section 8808 is added to the Family Code, to read:

19 8808. (a) The department or delegated county adoption agency
20 shall interview the petitioners within 45 working days, excluding
21 legal holidays, after the filing of the adoption petition.

22 (b) The department or delegated county adoption agency shall
23 interview all persons from whom consent is required and whose
24 addresses are known as soon as 50 percent of the fee has been
25 paid to the department or delegated county adoption agency. The
26 interview with the placing parent or parents shall include, but not
27 be limited to, discussion of any concerns or problems that the
28 parent has with the placement and, if the placing parent was not
29 interviewed as provided in Section 8801.7, the content required
30 in that interview. At the interview, the agency shall give the parent
31 an opportunity to sign either a statement revoking the consent, or
32 a waiver of the right to revoke consent, as provided in Section
33 8814.5.

34 (c) In order to facilitate the interview described in this section,
35 at the same time the petition is filed with the court, the petitioners
36 shall file with the district office of the department or with the
37 delegated county adoption agency responsible for the investigation
38 of the adoption, a copy of the petition together with 50 percent of
39 the fee, and the names, addresses, and telephone numbers of all
40 parties to be interviewed, if known.

1 *(d) This section shall become operative on October 1, 2008.*

2 *SEC. 11. Section 8810 of the Family Code is amended to read:*

3 8810. (a) Except as otherwise provided in this section,
4 whenever a petition is filed under this chapter for the adoption of
5 a child, the petitioner shall pay a nonrefundable fee to the
6 department or to the delegated county adoption agency for the cost
7 of investigating the adoption petition. Payment shall be made to
8 the department or delegated county adoption agency, within 40
9 days of the filing of the petition, for an amount as follows:

10 (1) For petitions filed on and after July 1, 2003, two thousand
11 nine hundred fifty dollars (\$2,950).

12 (2) For petitioners who have a valid preplacement evaluation
13 at the time of filing a petition pursuant to Section 8811.5, seven
14 hundred seventy-five dollars (\$775) for a postplacement evaluation
15 pursuant to Sections 8806 and 8807.

16 (b) Revenues produced by fees collected by the department
17 pursuant to subdivision (a) shall be used, when appropriated by
18 the Legislature, to fund only the direct costs associated with the
19 state program for independent adoptions. Revenues produced by
20 fees collected by the delegated county adoption agency pursuant
21 to subdivision (a) shall be used by the county to fund the county
22 program for independent adoptions.

23 (c) The department or delegated county adoption agency may
24 only waive, or reduce the fee when the prospective adoptive parents
25 are low income, according to the income limits published by the
26 Department of Housing and Community Development, and making
27 the required payment would be detrimental to the welfare of an
28 adopted child. The department shall develop additional guidelines
29 to determine the financial criteria for waiver or reduction of the
30 fee under this subdivision.

31 *(d) This section shall remain in effect only until October 1, 2008,*
32 *and as of that date is repealed.*

33 *SEC. 12. Section 8810 is added to the Family Code, to read:*

34 8810. (a) Except as otherwise provided in this section,
35 whenever a petition is filed under this chapter for the adoption of
36 a child, the petitioner shall pay a nonrefundable fee to the
37 department or to the delegated county adoption agency for the
38 cost of investigating the adoption petition. Fifty percent of the
39 payment shall be made to the department or delegated county
40 adoption agency at the time the adoption petition is filed, and the

1 remaining balance shall be paid no later than the date determined
2 by the department or the delegated county adoption agency in an
3 amount as follows:

4 (1) For petitions filed on and after October 1, 2008, four
5 thousand five hundred dollars (\$4,500).

6 (2) For petitioners who have a valid preplacement evaluation
7 at the time of filing a petition pursuant to Section 8811.5, one
8 thousand five hundred fifty dollars (\$1,550) for a postplacement
9 evaluation pursuant to Sections 8806 and 8807.

10 (b) Revenues produced by fees collected by the department
11 pursuant to subdivision (a) shall be used, when appropriated by
12 the Legislature, to fund only the direct costs associated with the
13 state program for independent adoptions. Revenues produced by
14 fees collected by the delegated county adoption agency pursuant
15 to subdivision (a) shall be used by the county to fund the county
16 program for independent adoptions.

17 (c) The department or delegated county adoption agency may
18 reduce the fee, to no less than five hundred dollars (\$500) when
19 the prospective adoptive parents are very low income, according
20 to the income limits published by the Department of Housing and
21 Community Development, and making the required payment would
22 be detrimental to the welfare of an adopted child. The department
23 shall develop additional guidelines regarding income and assets
24 to determine the financial criteria for reduction of the fee under
25 this subdivision.

26 (d) This section shall become operative on October 1, 2008.

27 SEC. 13. Section 8820 of the Family Code is amended to read:

28 8820. (a) The birth parent or parents or the petitioner may
29 appeal in either of the following cases:

30 (1) If for a period of 180 days from the date of filing the
31 adoption petition or upon the expiration of any extension of the
32 period granted by the court, the department or delegated county
33 adoption agency fails or refuses to accept the consent of the birth
34 parent or parents to the adoption.

35 (2) In a case where the consent of the department or delegated
36 county adoption agency is required by this chapter, if the
37 department or agency fails or refuses to file or give its consent to
38 the adoption.

39 (b) The appeal shall be filed in the court in which the adoption
40 petition is filed. The court clerk shall immediately notify the

1 department or delegated county adoption agency of the appeal and
2 the department or agency shall, within 10 days, file a report of its
3 findings and the reasons for its failure or refusal to consent to the
4 adoption or to accept the consent of the birth parent or parents.

5 (c) After the filing of the report by the department or delegated
6 county adoption agency, the court may, if it deems that the welfare
7 of the child will be promoted by that adoption, allow the signing
8 of the consent by the birth parent or parents in open court or, if
9 the appeal is from the refusal of the department or delegated county
10 adoption agency to consent thereto, grant the petition without the
11 consent.

12 (d) *This section shall remain in effect only until October 1, 2008,*
13 *and as of that date is repealed.*

14 SEC. 14. Section 8820 is added to the Family Code, to read:

15 8820. (a) *The birth parent or parents or the petitioner may*
16 *appeal in either of the following cases:*

17 (1) *If for a period of 180 days from the date of paying 50 percent*
18 *of the fee, or upon the expiration of any extension of the period*
19 *granted by the court, the department or delegated county adoption*
20 *agency fails or refuses to accept the consent of the birth parent or*
21 *parents to the adoption.*

22 (2) *In a case where the consent of the department or delegated*
23 *county adoption agency is required by this chapter, if the*
24 *department or agency fails or refuses to file or give its consent to*
25 *the adoption after full payment has been received.*

26 (b) *The appeal shall be filed in the court in which the adoption*
27 *petition is filed. The court clerk shall immediately notify the*
28 *department or delegated county adoption agency of the appeal*
29 *and the department or agency shall, within 10 days, file a report*
30 *of its findings and the reasons for its failure or refusal to consent*
31 *to the adoption or to accept the consent of the birth parent or*
32 *parents.*

33 (c) *After the filing of the report by the department or delegated*
34 *county adoption agency, the court may, if it deems that the welfare*
35 *of the child will be promoted by that adoption, allow the signing*
36 *of the consent by the birth parent or parents in open court or, if*
37 *the appeal is from the refusal of the department or delegated county*
38 *adoption agency to consent thereto, grant the petition without the*
39 *consent.*

40 (d) *This section shall become operative on October 1, 2008.*

1 *SEC. 15. Section 9205 of the Family Code is amended to read:*

2 9205. (a) Notwithstanding any other law, the department or
3 adoption agency that joined in the adoption petition shall release
4 the names and addresses of siblings to one another if both of the
5 siblings have attained 18 years of age and have filed the following
6 with the department or agency:

7 (1) A current address.

8 (2) A written request for contact with any sibling whose
9 existence is known to the person making the request.

10 (3) A written waiver of the person's rights with respect to the
11 disclosure of the person's name and address to the sibling, if the
12 person is an adoptee.

13 (b) Upon inquiry and proof that a person is the sibling of an
14 adoptee who has filed a waiver pursuant to this section, the
15 department or agency may advise the sibling that a waiver has
16 been filed by the adoptee. The department or agency may charge
17 a reasonable fee, not to exceed fifty dollars (\$50), for providing
18 the service required by this section.

19 (c) An adoptee may revoke a waiver filed pursuant to this section
20 by giving written notice of revocation to the department or agency.

21 (d) The department shall adopt a form for the request authorized
22 by this section. The form shall provide for an affidavit to be
23 executed by a person seeking to employ the procedure provided
24 by this section that, to the best of the person's knowledge, the
25 person is an adoptee or sibling of an adoptee. The form also shall
26 contain a notice of an adoptee's rights pursuant to subdivision (c)
27 and a statement that information will be disclosed only if there is
28 a currently valid waiver on file with the department or agency.
29 The department may adopt regulations requiring any additional
30 means of identification from a person making a request pursuant
31 to this section as it deems necessary.

32 (e) The department or agency may not solicit the execution of
33 a waiver authorized by this section. However, the department shall
34 announce the availability of the procedure authorized by this
35 section, utilizing a means of communication appropriate to inform
36 the public effectively.

37 (f) Notwithstanding the age requirement described in subdivision
38 (a), an adoptee or sibling who is under 18 years of age may file a
39 written waiver of confidentiality for the release of his or her name,
40 address, and telephone number pursuant to this section provided

1 that, if an adoptee, the adoptive parent consents, and, if a sibling,
2 the sibling's legal parent or guardian consents. If the sibling is
3 under the jurisdiction of the dependency court and has no legal
4 parent or guardian able or available to provide consent, the
5 dependency court may provide that consent.

6 (g) Notwithstanding subdivisions (a) and (e), an adoptee or
7 sibling who seeks contact with the other for whom no waiver is
8 on file may petition the court to appoint a confidential intermediary.
9 If the sibling being sought is the adoptee, the intermediary shall
10 be the department or licensed adoption agency that provided
11 adoption services as described in Section 8521 or 8533. If the
12 sibling being sought was formerly under the jurisdiction of the
13 juvenile court, but is not an adoptee, the intermediary shall be the
14 department, the county child welfare agency that provided services
15 to the dependent child, or the licensed adoption agency that
16 provided adoption services to the sibling seeking contact, as
17 appropriate. If the court finds that the licensed adoption agency
18 that conducted the adoptee's adoption is unable, due to economic
19 hardship, to serve as the intermediary, then the agency shall provide
20 all records related to the adoptee or the sibling to the court and the
21 court shall appoint an alternate confidential intermediary. The
22 court shall grant the petition unless it finds that it would be
23 detrimental to the adoptee or sibling with whom contact is sought.
24 The intermediary shall have access to all records of the adoptee
25 or the sibling and shall make all reasonable efforts to locate and
26 attempt to obtain the consent of the adoptee, sibling, or adoptive
27 or birth parent, as required to make the disclosure authorized by
28 this section. The confidential intermediary shall notify any located
29 adoptee, sibling, or adoptive or birth parent that consent is optional,
30 not required by law, and does not affect the status of the adoption.
31 If that individual denies the request for consent, the confidential
32 intermediary shall not make any further attempts to obtain consent.
33 The confidential intermediary shall use information found in the
34 records of the adoptee or the sibling for authorized purposes only,
35 and may not disclose that information without authorization. If
36 contact is sought with an adoptee or sibling who is under 18 years
37 of age, the confidential intermediary shall contact and obtain the
38 consent of that child's legal parent before contacting the child. If
39 the sibling is under 18 years of age, under the jurisdiction of the
40 dependency court, and has no legal parent or guardian able or

1 available to provide consent, the intermediary shall obtain that
2 consent from the dependency court. If the adoptee is seeking
3 information regarding a sibling who is known to be a dependent
4 child of the juvenile court, the procedures set forth in subdivision
5 (b) of Section 388 of the Welfare and Institutions Code shall be
6 utilized. If the adoptee is foreign born and was the subject of an
7 intercountry adoption as defined in Section 8527, the adoption
8 agency may fulfill the reasonable efforts requirement by utilizing
9 all information in the agency's case file, and any information
10 received upon request from the foreign adoption agency that
11 conducted the adoption, if any, to locate and attempt to obtain the
12 consent of the adoptee, sibling, or adoptive or birth parent. If that
13 information is neither in the agency's case file, nor received from
14 the foreign adoption agency, or if the attempts to locate are
15 unsuccessful, then the agency shall be relieved of any further
16 obligation to search for the adoptee or the sibling.

17 (h) For purposes of this section, "sibling" means a biological
18 sibling, half-sibling, or step-sibling of the adoptee.

19 (i) *Implementation of the amendments made to this section by*
20 *Chapter 386 of the Statutes of 2006 shall be delayed until July 1,*
21 *2010. It is the intent of the Legislature that counties that are*
22 *already implementing some or all of the changes made to Section*
23 *9205 of the Family Code by Chapter 386 of the Statutes of 2006*
24 *shall continue to implement these provisions, to the extent possible.*

25 *SEC. 16. Section 17560 of the Family Code is amended to*
26 *read:*

27 17560. (a) ~~The department shall create a program establishing~~
28 ~~an arrears collection enhancement process~~ *establish and operate*
29 *a statewide compromise of arrears program* pursuant to which the
30 department may accept offers in compromise of child support
31 arrears and interest accrued thereon owed to the state for
32 reimbursement of aid paid pursuant to Chapter 2 (commencing
33 with Section 11200) of Part 3 of Division 9 of the Welfare and
34 Institutions Code. The program shall operate uniformly across
35 California and shall take into consideration the needs of the
36 children subject to the child support order and the obligor's ability
37 to pay.

38 (b) If the obligor owes current child support, the offer in
39 compromise shall require the obligor to be in compliance with the

1 current support order for a set period of time before any arrears
2 and interest accrued thereon may be compromised.

3 (c) Absent a finding of good cause, *or a determination by the*
4 *director that it is in the best interest of the state to do otherwise,*
5 any offer in compromise entered into pursuant to this section shall
6 be rescinded, all compromised liabilities shall be reestablished
7 notwithstanding any statute of limitations that otherwise may be
8 applicable, and no portion of the amount offered in compromise
9 may be refunded, if either of the following occurs:

10 (1) The department or local child support agency determines
11 that the obligor did any of the following acts regarding the offer
12 in compromise:

13 (A) Concealed from the department or local child support agency
14 any income, assets, or other property belonging to the obligor or
15 any reasonably anticipated receipt of income, assets, or other
16 property.

17 (B) Intentionally received, withheld, destroyed, mutilated, or
18 falsified any information, document, or record, or intentionally
19 made any false statement, relating to the financial conditions of
20 the obligor.

21 (2) The obligor fails to comply with any of the terms and
22 conditions of the offer in compromise.

23 (d) Pursuant to subdivision (k) of Section 17406, in no event
24 may the administrator, director, or director's designee within the
25 department, accept an offer in compromise of any child support
26 arrears owed directly to the custodial party unless that party
27 consents to the offer in compromise in writing and participates in
28 the agreement. Prior to giving consent, the custodial party shall
29 be provided with a clear written explanation of the rights with
30 respect to child support arrears owed to the custodial party and the
31 compromise thereof.

32 (e) Subject to the requirements of this section, the director ~~may~~
33 *shall* delegate to the administrator of a local child support agency
34 the authority to compromise an amount of child support arrears
35 ~~that does not exceed up to~~ five thousand dollars (\$5,000). ~~Only~~
36 ~~the director or his or her designee may compromise child support~~
37 ~~arrears in excess of five thousand dollars (\$5,000), and may~~
38 *delegate additional authority to compromise up to an amount*
39 *determined by the director to support the effective administration*
40 *of the offers in compromise program.*

1 (f) For an amount to be compromised under this section, the
2 following conditions shall exist:

3 (1) (A) The administrator, director or director's designee within
4 the department determines that acceptance of an offer in
5 compromise is in the best interest of the state and that the
6 compromise amount equals or exceeds what the state can expect
7 to collect for reimbursement of aid paid pursuant to Chapter 2
8 (commencing with Section 11200) of Part 3 of Division 9 of the
9 Welfare and Institutions Code in the absence of the compromise,
10 based on the obligor's ability to pay.

11 (B) Acceptance of an offer in compromise shall be deemed to
12 be in the best interest of the state, absent a finding of good cause
13 to the contrary, with regard to arrears that accrued as a result of a
14 decrease in income when an obligor was a reservist or member of
15 the National Guard, was activated to United States military service,
16 and failed to modify the support order to reflect the reduction in
17 income. Good cause to find that the compromise is not in the best
18 interest of the state shall include circumstances in which the service
19 member's failure to seek, or delay in seeking, the modification
20 were not reasonable under the circumstances faced by the service
21 member. The director, no later than 90 days after the effective date
22 of the act adding this subparagraph, shall establish rules that
23 compromise, at a minimum, the amount of support that would not
24 have accrued had the order been modified to reflect the reduced
25 income earned during the period of active military service.

26 (2) Any other terms and conditions that the director establishes
27 that may include, but may not be limited to, paying current support
28 in a timely manner, making lump-sum payments, and paying
29 arrears in exchange for compromise of interest owed.

30 (3) The obligor shall provide evidence of income and assets,
31 including, but not limited to, wage stubs, tax returns, and bank
32 statements ~~and~~ *as necessary to* establish all of the following:

33 (A) That the amount set forth in the offer in compromise of
34 arrears owed is the most that can be expected to be paid or collected
35 from the obligor's present assets or income.

36 (B) That the obligor does not have reasonable prospects of
37 acquiring increased income or assets that would enable the obligor
38 to satisfy a greater amount of the child support arrears than the
39 amount offered, within a reasonable period of time.

1 (C) That the obligor has not withheld payment of child support
2 in anticipation of the offers in compromise program.

3 (g) A determination by the administrator, director or the
4 director's designee within the department that it would not be in
5 the best interest of the state to accept *or rescind* an offer in
6 compromise in satisfaction of child support arrears shall be final
7 and not subject to the provisions of Chapter 5 (commencing with
8 Section 17800) of Division 17, or subject to judicial review.

9 (h) Any offer in compromise entered into pursuant to this section
10 shall be filed with the appropriate court. The local child support
11 agency shall notify the court if the compromise is rescinded
12 pursuant to subdivision (c).

13 (i) Any compromise of child support arrears pursuant to this
14 section shall maximize to the greatest extent possible the state's
15 share of the federal performance incentives paid pursuant to the
16 Child Support Performance and Incentive Act of 1998 and shall
17 comply with federal law.

18 (j) The department shall ensure uniform application of this
19 section across the state.

20 ~~(k) The department shall consult with the Franchise Tax Board
21 in the development of the program established pursuant to this
22 section.~~

23 ~~(l) The department shall report to the Legislature on the results
24 of the program established pursuant to this section no later than
25 January 1, 2008.~~

26 ~~(m) This section shall remain in effect only until July 1, 2008,
27 and as of that date is repealed unless a later enacted statute, that
28 is enacted before July 1, 2008, deletes or extends that date. A local
29 child support agency shall honor repayment schedules for the
30 compromise program beyond June 30, 2008, in order to allow for
31 successful completion of the compromise agreements.~~

32 *SEC. 17. Section 17706 of the Family Code is amended to*
33 *read:*

34 17706. (a) It is the intent of the Legislature to encourage
35 counties to elevate the visibility and significance of the child
36 support enforcement program in the county. To advance this goal,
37 effective July 1, 2000, the counties with the 10 best performance
38 standards pursuant to clause (ii) of subparagraph (B) of paragraph
39 (2) of subdivision (b) of Section 17704 shall receive an additional
40 5 percent of the state's share of those counties' collections that are

1 used to reduce or repay aid that is paid pursuant to Article 6
2 (commencing with Section 11450) of Chapter 2 of Part 3 of
3 Division 9 of the Welfare and Institutions Code. The counties shall
4 use the increased recoupment for child support-related activities
5 that may not be eligible for federal child support funding under
6 Part D of Title IV of the Social Security Act, including, but not
7 limited to, providing services to parents to help them better support
8 their children financially, medically, and emotionally.

9 (b) The operation of subdivision (a) shall be suspended for the
10 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, ~~and 2007–08,~~
11 ~~2008–09, 2009–10, 2010–11, and 2011–12~~ fiscal years.

12 *SEC. 18. Section 1522 of the Health and Safety Code is*
13 *amended to read:*

14 1522. The Legislature recognizes the need to generate timely
15 and accurate positive fingerprint identification of applicants as a
16 condition of issuing licenses, permits, or certificates of approval
17 for persons to operate or provide direct care services in a
18 community care facility, foster family home, or a certified family
19 home of a licensed foster family agency. Therefore, the Legislature
20 supports the use of the fingerprint live-scan technology, as
21 identified in the long-range plan of the Department of Justice for
22 fully automating the processing of fingerprints and other data by
23 the year 1999, otherwise known as the California Crime
24 Information Intelligence System (CAL-CII), to be used for
25 applicant fingerprints. It is the intent of the Legislature in enacting
26 this section to require the fingerprints of those individuals whose
27 contact with community care clients may pose a risk to the clients’
28 health and safety. An individual shall be required to obtain either
29 a criminal record clearance or a criminal record exemption from
30 the State Department of Social Services before his or her initial
31 presence in a community care facility.

32 (a) (1) Before issuing a license or special permit to any person
33 or persons to operate or manage a community care facility, the
34 State Department of Social Services shall secure from an
35 appropriate law enforcement agency a criminal record to determine
36 whether the applicant or any other person specified in subdivision
37 (b) has ever been convicted of a crime other than a minor traffic
38 violation or arrested for any crime specified in Section 290 of the
39 Penal Code, for violating Section 245 or 273.5, of the Penal Code,
40 subdivision (b) of Section 273a of the Penal Code, or, prior to

1 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
2 or for any crime for which the department cannot grant an
3 exemption if the person was convicted and the person has not been
4 exonerated.

5 (2) The criminal history information shall include the full
6 criminal record, if any, of those persons, and subsequent arrest
7 information pursuant to Section 11105.2 of the Penal Code.

8 (3) Except during the 2003–04, ~~2004–05, 2005–06, 2006–07,~~
9 ~~and 2007–08~~ fiscal years *through the 2009–10 fiscal years,*
10 *inclusive,* neither the Department of Justice nor the State
11 Department of Social Services may charge a fee for the
12 fingerprinting of an applicant for a license or special permit to
13 operate a facility providing nonmedical board, room, and care for
14 six or less children or for obtaining a criminal record of the
15 applicant pursuant to this section.

16 (4) The following shall apply to the criminal record information:

17 (A) If the State Department of Social Services finds that the
18 applicant, or any other person specified in subdivision (b), has
19 been convicted of a crime other than a minor traffic violation, the
20 application shall be denied, unless the director grants an exemption
21 pursuant to subdivision (g).

22 (B) If the State Department of Social Services finds that the
23 applicant, or any other person specified in subdivision (b) is
24 awaiting trial for a crime other than a minor traffic violation, the
25 State Department of Social Services may cease processing the
26 application until the conclusion of the trial.

27 (C) If no criminal record information has been recorded, the
28 Department of Justice shall provide the applicant and the State
29 Department of Social Services with a statement of that fact.

30 (D) If the State Department of Social Services finds after
31 licensure that the licensee, or any other person specified in
32 paragraph (2) of subdivision (b), has been convicted of a crime
33 other than a minor traffic violation, the license may be revoked,
34 unless the director grants an exemption pursuant to subdivision
35 (g).

36 (E) An applicant and any other person specified in subdivision
37 (b) shall submit fingerprint images and related information to the
38 Department of Justice for the purpose of searching the criminal
39 records of the Federal Bureau of Investigation, in addition to the
40 criminal records search required by this subdivision. If an applicant

1 and all other persons described in subdivision (b) meet all of the
2 conditions for licensure, except receipt of the Federal Bureau of
3 Investigation's criminal offender record information search
4 response for the applicant or any of the persons described in
5 subdivision (b), the department may issue a license if the applicant
6 and each person described in subdivision (b) has signed and
7 submitted a statement that he or she has never been convicted of
8 a crime in the United States, other than a traffic infraction, as
9 defined in paragraph (1) of subdivision (a) of Section 42001 of
10 the Vehicle Code. If, after licensure, the department determines
11 that the licensee or any other person specified in subdivision (b)
12 has a criminal record, the license may be revoked pursuant to
13 Section 1550. The department may also suspend the license
14 pending an administrative hearing pursuant to Section 1550.5.

15 (F) The State Department of Social Services shall develop
16 procedures to provide the individual's state and federal criminal
17 history information with the written notification of his or her
18 exemption denial or revocation based on the criminal record.
19 Receipt of the criminal history information shall be optional on
20 the part of the individual, as set forth in the agency's procedures.
21 The procedure shall protect the confidentiality and privacy of the
22 individual's record, and the criminal history information shall not
23 be made available to the employer.

24 (G) Notwithstanding any other provision of law, the department
25 is authorized to provide an individual with a copy of his or her
26 state or federal level criminal offender record information search
27 response as provided to that department by the Department of
28 Justice if the department has denied a criminal background
29 clearance based on this information and the individual makes a
30 written request to the department for a copy specifying an address
31 to which it is to be sent. The state or federal level criminal offender
32 record information search response shall not be modified or altered
33 from its form or content as provided by the Department of Justice
34 and shall be provided to the address specified by the individual in
35 their written request. The department shall retain a copy of the
36 individual's written request and the response and date provided.

37 (b) (1) In addition to the applicant, this section shall be
38 applicable to criminal convictions of the following persons:

39 (A) Adults responsible for administration or direct supervision
40 of staff.

1 (B) Any person, other than a client, residing in the facility.

2 (C) Any person who provides client assistance in dressing,
3 grooming, bathing, or personal hygiene. Any nurse assistant or
4 home health aide meeting the requirements of Section 1338.5 or
5 1736.6, respectively, who is not employed, retained, or contracted
6 by the licensee, and who has been certified or recertified on or
7 after July 1, 1998, shall be deemed to meet the criminal record
8 clearance requirements of this section. A certified nurse assistant
9 and certified home health aide who will be providing client
10 assistance and who falls under this exemption shall provide one
11 copy of his or her current certification, prior to providing care, to
12 the community care facility. The facility shall maintain the copy
13 of the certification on file as long as care is being provided by the
14 certified nurse assistant or certified home health aide at the facility.
15 Nothing in this paragraph restricts the right of the department to
16 exclude a certified nurse assistant or certified home health aide
17 from a licensed community care facility pursuant to Section 1558.

18 (D) Any staff person, volunteer, or employee who has contact
19 with the clients.

20 (E) If the applicant is a firm, partnership, association, or
21 corporation, the chief executive officer or other person serving in
22 like capacity.

23 (F) Additional officers of the governing body of the applicant,
24 or other persons with a financial interest in the applicant, as
25 determined necessary by the department by regulation. The criteria
26 used in the development of these regulations shall be based on the
27 person's capability to exercise substantial influence over the
28 operation of the facility.

29 (2) The following persons are exempt from the requirements
30 applicable under paragraph (1):

31 (A) A medical professional as defined in department regulations
32 who holds a valid license or certification from the person's
33 governing California medical care regulatory entity and who is
34 not employed, retained, or contracted by the licensee if all of the
35 following apply:

36 (i) The criminal record of the person has been cleared as a
37 condition of licensure or certification by the person's governing
38 California medical care regulatory entity.

39 (ii) The person is providing time-limited specialized clinical
40 care or services.

- 1 (iii) The person is providing care or services within the person’s
- 2 scope of practice.
- 3 (iv) The person is not a community care facility licensee or an
- 4 employee of the facility.
- 5 (B) A third-party repair person or similar retained contractor if
- 6 all of the following apply:
- 7 (i) The person is hired for a defined, time-limited job.
- 8 (ii) The person is not left alone with clients.
- 9 (iii) When clients are present in the room in which the
- 10 repairperson or contractor is working, a staff person who has a
- 11 criminal record clearance or exemption is also present.
- 12 (C) Employees of a licensed home health agency and other
- 13 members of licensed hospice interdisciplinary teams who have a
- 14 contract with a client or resident of the facility and are in the
- 15 facility at the request of that client or resident’s legal
- 16 decisionmaker. The exemption does not apply to a person who is
- 17 a community care facility licensee or an employee of the facility.
- 18 (D) Clergy and other spiritual caregivers who are performing
- 19 services in common areas of the community care facility or who
- 20 are advising an individual client at the request of, or with the
- 21 permission of, the client or legal decisionmaker, are exempt from
- 22 fingerprint and criminal background check requirements imposed
- 23 by community care licensing. This exemption does not apply to a
- 24 person who is a community care licensee or employee of the
- 25 facility.
- 26 (E) Members of fraternal, service, or similar organizations who
- 27 conduct group activities for clients if all of the following apply:
- 28 (i) Members are not left alone with clients.
- 29 (ii) Members do not transport clients off the facility premises.
- 30 (iii) The same organization does not conduct group activities
- 31 for clients more often than defined by the department’s regulations.
- 32 (3) In addition to the exemptions in paragraph (2), the following
- 33 persons in foster family homes, certified family homes, and small
- 34 family homes are exempt from the requirements applicable under
- 35 paragraph (1):
- 36 (A) Adult friends and family of the licensed or certified foster
- 37 parent, who come into the home to visit for a length of time no
- 38 longer than defined by the department in regulations, provided
- 39 that the adult friends and family of the licensee are not left alone
- 40 with the foster children. However, the licensee, acting as a

1 reasonable and prudent parent, as defined in paragraph (2) of
2 subdivision (a) of Section 362.04 of the Welfare and Institutions
3 Code, may allow his or her adult friends and family to provide
4 short-term care to the foster child and act as an appropriate
5 occasional short-term babysitter for the child.

6 (B) Parents of a foster child's friends when the foster child is
7 visiting the friend's home and the friend, licensed or certified foster
8 parent, or both are also present. However, the licensee, acting as
9 a reasonable and prudent parent, may allow the parent of the foster
10 child's friends to act as an appropriate short-term babysitter for
11 the child without the friend being present.

12 (C) Individuals who are engaged by any licensed or certified
13 foster parent to provide short-term care to the child for periods not
14 to exceed 24 hours. Caregivers shall use a reasonable and prudent
15 parent standard in selecting appropriate individuals to act as
16 appropriate occasional short-term babysitters.

17 (4) In addition to the exemptions specified in paragraph (2), the
18 following persons in adult day care and adult day support centers
19 are exempt from the requirements applicable under paragraph (1):

20 (A) Unless contraindicated by the client's individualized
21 program plan (IPP) or needs and service plan, a spouse, significant
22 other, relative, or close friend of a client, or an attendant or a
23 facilitator for a client with a developmental disability if the
24 attendant or facilitator is not employed, retained, or contracted by
25 the licensee. This exemption applies only if the person is visiting
26 the client or providing direct care and supervision to the client.

27 (B) A volunteer if all of the following applies:

28 (i) The volunteer is supervised by the licensee or a facility
29 employee with a criminal record clearance or exemption.

30 (ii) The volunteer is never left alone with clients.

31 (iii) The volunteer does not provide any client assistance with
32 dressing, grooming, bathing, or personal hygiene other than
33 washing of hands.

34 (5) (A) In addition to the exemptions specified in paragraph
35 (2), the following persons in adult residential and social
36 rehabilitation facilities, unless contraindicated by the client's
37 individualized program plan (IPP) or needs and services plan, are
38 exempt from the requirements applicable under paragraph (1): a
39 spouse, significant other, relative, or close friend of a client, or an
40 attendant or a facilitator for a client with a developmental disability

1 if the attendant or facilitator is not employed, retained, or
2 contracted by the licensee. This exemption applies only if the
3 person is visiting the client or providing direct care and supervision
4 to that client.

5 (B) Nothing in this subdivision shall prevent a licensee from
6 requiring a criminal record clearance of any individual exempt
7 from the requirements of this section, provided that the individual
8 has client contact.

9 (6) Any person similar to those described in this subdivision,
10 as defined by the department in regulations.

11 (c) (1) Subsequent to initial licensure, any person specified in
12 subdivision (b) and not exempted from fingerprinting shall, as a
13 condition to employment, residence, or presence in a community
14 care facility, be fingerprinted and sign a declaration under penalty
15 of perjury regarding any prior criminal convictions. The licensee
16 shall submit fingerprint images and related information to the
17 Department of Justice and the Federal Bureau of Investigation,
18 through the Department of Justice, for a state and federal level
19 criminal offender record information search, or to comply with
20 paragraph (1) of subdivision (h), prior to the person's employment,
21 residence, or initial presence in the community care facility. These
22 fingerprint images and related information shall be sent by
23 electronic transmission in a manner approved by the State
24 Department of Social Services and the Department of Justice for
25 the purpose of obtaining a permanent set of fingerprints, and shall
26 be submitted to the Department of Justice by the licensee. A
27 licensee's failure to submit fingerprints to the Department of Justice
28 or to comply with paragraph (1) of subdivision (h), as required in
29 this section, shall result in the citation of a deficiency and the
30 immediate assessment of civil penalties in the amount of one
31 hundred dollars (\$100) per violation per day for a maximum of
32 five days, unless the violation is a second or subsequent violation
33 within a 12-month period in which case the civil penalties shall
34 be in the amount of one hundred dollars (\$100) per violation for
35 a maximum of 30 days, and shall be grounds for disciplining the
36 licensee pursuant to Section 1550. The department may assess
37 civil penalties for continued violations as permitted by Section
38 1548. The fingerprint images and related information shall then
39 be submitted to the Department of Justice for processing. Upon
40 request of the licensee, who shall enclose a self-addressed stamped

1 postcard for this purpose, the Department of Justice shall verify
2 receipt of the fingerprints.

3 (2) Within 14 calendar days of the receipt of the fingerprint
4 images, the Department of Justice shall notify the State Department
5 of Social Services of the criminal record information, as provided
6 for in subdivision (a). If no criminal record information has been
7 recorded, the Department of Justice shall provide the licensee and
8 the State Department of Social Services with a statement of that
9 fact within 14 calendar days of receipt of the fingerprint images.
10 Documentation of the individual's clearance or exemption shall
11 be maintained by the licensee and be available for inspection. If
12 new fingerprint images are required for processing, the Department
13 of Justice shall, within 14 calendar days from the date of receipt
14 of the fingerprints, notify the licensee that the fingerprints were
15 illegible, the Department of Justice shall notify the State
16 Department of Social Services, as required by Section 1522.04,
17 and shall also notify the licensee by mail, within 14 days of
18 electronic transmission of the fingerprints to the Department of
19 Justice, if the person has no criminal history recorded. A violation
20 of the regulations adopted pursuant to Section 1522.04 shall result
21 in the citation of a deficiency and an immediate assessment of civil
22 penalties in the amount of one hundred dollars (\$100) per violation
23 per day for a maximum of five days, unless the violation is a second
24 or subsequent violation within a 12-month period in which case
25 the civil penalties shall be in the amount of one hundred dollars
26 (\$100) per violation for a maximum of 30 days, and shall be
27 grounds for disciplining the licensee pursuant to Section 1550.
28 The department may assess civil penalties for continued violations
29 as permitted by Section 1548.

30 (3) Except for persons specified in paragraph (2) of subdivision
31 (b), the licensee shall endeavor to ascertain the previous
32 employment history of persons required to be fingerprinted under
33 this subdivision. If it is determined by the State Department of
34 Social Services, on the basis of the fingerprint images and related
35 information submitted to the Department of Justice, that the person
36 has been convicted of, or is awaiting trial for, a sex offense against
37 a minor, or has been convicted for an offense specified in Section
38 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony,
39 the State Department of Social Services shall notify the licensee
40 to act immediately to terminate the person's employment, remove

1 the person from the community care facility, or bar the person
2 from entering the community care facility. The State Department
3 of Social Services may subsequently grant an exemption pursuant
4 to subdivision (g). If the conviction or arrest was for another crime,
5 except a minor traffic violation, the licensee shall, upon notification
6 by the State Department of Social Services, act immediately to
7 either (A) terminate the person's employment, remove the person
8 from the community care facility, or bar the person from entering
9 the community care facility; or (B) seek an exemption pursuant to
10 subdivision (g). The State Department of Social Services shall
11 determine if the person shall be allowed to remain in the facility
12 until a decision on the exemption is rendered. A licensee's failure
13 to comply with the department's prohibition of employment,
14 contact with clients, or presence in the facility as required by this
15 paragraph shall be grounds for disciplining the licensee pursuant
16 to Section 1550.

17 (4) The department may issue an exemption on its own motion
18 pursuant to subdivision (g) if the person's criminal history indicates
19 that the person is of good character based on the age, seriousness,
20 and frequency of the conviction or convictions. The department,
21 in consultation with interested parties, shall develop regulations
22 to establish the criteria to grant an exemption pursuant to this
23 paragraph.

24 (5) Concurrently with notifying the licensee pursuant to
25 paragraph (3), the department shall notify the affected individual
26 of his or her right to seek an exemption pursuant to subdivision
27 (g). The individual may seek an exemption only if the licensee
28 terminates the person's employment or removes the person from
29 the facility after receiving notice from the department pursuant to
30 paragraph (3).

31 (d) (1) Before issuing a license, special permit, or certificate
32 of approval to any person or persons to operate or manage a foster
33 family home or certified family home as described in Section 1506,
34 the State Department of Social Services or other approving
35 authority shall secure from an appropriate law enforcement agency
36 a criminal record to determine whether the applicant or any person
37 specified in subdivision (b) has ever been convicted of a crime
38 other than a minor traffic violation or arrested for any crime
39 specified in subdivision (c) of Section 290 of the Penal Code, for
40 violating Section 245 or 273.5, subdivision (b) of Section 273a or,

1 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
2 Code, or for any crime for which the department cannot grant an
3 exemption if the person was convicted and the person has not been
4 exonerated.

5 (2) The criminal history information shall include the full
6 criminal record, if any, of those persons.

7 (3) Neither the Department of Justice nor the State Department
8 of Social Services may charge a fee for the fingerprinting of an
9 applicant for a license, special permit, or certificate of approval
10 described in this subdivision. The record, if any, shall be taken
11 into consideration when evaluating a prospective applicant.

12 (4) The following shall apply to the criminal record information:

13 (A) If the applicant or other persons specified in subdivision
14 (b) have convictions that would make the applicant's home unfit
15 as a foster family home or a certified family home, the license,
16 special permit, or certificate of approval shall be denied.

17 (B) If the State Department of Social Services finds that the
18 applicant, or any person specified in subdivision (b) is awaiting
19 trial for a crime other than a minor traffic violation, the State
20 Department of Social Services or other approving authority may
21 cease processing the application until the conclusion of the trial.

22 (C) For the purposes of this subdivision, a criminal record
23 clearance provided under Section 8712 of the Family Code may
24 be used by the department or other approving agency.

25 (D) To the extent required by federal law, an applicant for a
26 foster family home license or for certification as a family home,
27 and any other person specified in subdivision (b), shall submit a
28 set of fingerprint images and related information to the Department
29 of Justice and the Federal Bureau of Investigation, through the
30 Department of Justice, for a state and federal level criminal
31 offender record information search, in addition to the criminal
32 records search required by subdivision (a).

33 (5) Any person specified in this subdivision shall, as a part of
34 the application, be fingerprinted and sign a declaration under
35 penalty of perjury regarding any prior criminal convictions or
36 arrests for any crime against a child, spousal or cohabitant abuse
37 or, any crime for which the department cannot grant an exemption
38 if the person was convicted and shall submit these fingerprints to
39 the licensing agency or other approving authority.

1 (6) (A) The foster family agency shall obtain fingerprint images
2 and related information from certified home applicants and from
3 persons specified in subdivision (b) and shall submit them directly
4 to the Department of Justice by electronic transmission in a manner
5 approved by the State Department of Social Services and the
6 Department of Justice. A foster family home licensee or foster
7 family agency shall submit these fingerprint images and related
8 information to the Department of Justice and the Federal Bureau
9 of Investigation, through the Department of Justice, for a state and
10 federal level criminal offender record information search, or to
11 comply with paragraph (1) of subdivision (b) prior to the person's
12 employment, residence, or initial presence in the foster family
13 home or certified family home. A foster family agency's failure
14 to submit fingerprint images and related information to the
15 Department of Justice, or comply with paragraph (1) of subdivision
16 (h), as required in this section, shall result in a citation of a
17 deficiency, and the immediate civil penalties of one hundred dollars
18 (\$100) per violation per day for a maximum of five days, unless
19 the violation is a second or subsequent violation within a 12-month
20 period in which case the civil penalties shall be in the amount of
21 one hundred dollars (\$100) per violation for a maximum of 30
22 days, and shall be grounds for disciplining the licensee pursuant
23 to Section 1550. A violation of the regulation adopted pursuant to
24 Section 1522.04 shall result in the citation of a deficiency and an
25 immediate assessment of civil penalties in the amount of one
26 hundred dollars (\$100) per violation per day for a maximum of
27 five days, unless the violation is a second or subsequent violation
28 within a 12-month period in which case the civil penalties shall
29 be in the amount of one hundred dollars (\$100) per violation for
30 a maximum of 30 days, and shall be grounds for disciplining the
31 foster family agency pursuant to Section 1550. A licensee's failure
32 to submit fingerprint images and related information to the
33 Department of Justice, or comply with paragraph (1) of subdivision
34 (h), as required in this section, may result in the citation of a
35 deficiency and immediate civil penalties of one hundred dollars
36 (\$100) per violation. A licensee's violation of regulations adopted
37 pursuant to Section 1522.04 may result in the citation of a
38 deficiency and an immediate assessment of civil penalties in the
39 amount of one hundred dollars (\$100) per violation. The State
40 Department of Social Services may assess penalties for continued

1 violations, as permitted by Section 1548. The fingerprint images
2 shall then be submitted to the Department of Justice for processing.

3 (B) Upon request of the licensee, who shall enclose a
4 self-addressed envelope for this purpose, the Department of Justice
5 shall verify receipt of the fingerprints. Within five working days
6 of the receipt of the criminal record or information regarding
7 criminal convictions from the Department of Justice, the
8 department shall notify the applicant of any criminal arrests or
9 convictions. If no arrests or convictions are recorded, the
10 Department of Justice shall provide the foster family home licensee
11 or the foster family agency with a statement of that fact concurrent
12 with providing the information to the State Department of Social
13 Services.

14 (7) If the State Department of Social Services finds that the
15 applicant, or any other person specified in subdivision (b), has
16 been convicted of a crime other than a minor traffic violation, the
17 application shall be denied, unless the director grants an exemption
18 pursuant to subdivision (g).

19 (8) If the State Department of Social Services finds after
20 licensure or the granting of the certificate of approval that the
21 licensee, certified foster parent, or any other person specified in
22 paragraph (2) of subdivision (b), has been convicted of a crime
23 other than a minor traffic violation, the license or certificate of
24 approval may be revoked by the department or the foster family
25 agency, whichever is applicable, unless the director grants an
26 exemption pursuant to subdivision (g). A licensee's failure to
27 comply with the department's prohibition of employment, contact
28 with clients, or presence in the facility as required by paragraph
29 (3) of subdivision (c) shall be grounds for disciplining the licensee
30 pursuant to Section 1550.

31 (e) The State Department of Social Services may not use a
32 record of arrest to deny, revoke, or terminate any application,
33 license, employment, or residence unless the department
34 investigates the incident and secures evidence, whether or not
35 related to the incident of arrest, that is admissible in an
36 administrative hearing to establish conduct by the person that may
37 pose a risk to the health and safety of any person who is or may
38 become a client. The State Department of Social Services is
39 authorized to obtain any arrest or conviction records or reports
40 from any law enforcement agency as necessary to the performance

1 of its duties to inspect, license, and investigate community care
2 facilities and individuals associated with a community care facility.

3 (f) (1) For purposes of this section or any other provision of
4 this chapter, a conviction means a plea or verdict of guilty or a
5 conviction following a plea of nolo contendere. Any action that
6 the State Department of Social Services is permitted to take
7 following the establishment of a conviction may be taken when
8 the time for appeal has elapsed, when the judgment of conviction
9 has been affirmed on appeal, or when an order granting probation
10 is made suspending the imposition of sentence, notwithstanding
11 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
12 Penal Code permitting the person to withdraw his or her plea of
13 guilty and to enter a plea of not guilty, or setting aside the verdict
14 of guilty, or dismissing the accusation, information, or indictment.
15 For purposes of this section or any other provision of this chapter,
16 the record of a conviction, or a copy thereof certified by the clerk
17 of the court or by a judge of the court in which the conviction
18 occurred, shall be conclusive evidence of the conviction. For
19 purposes of this section or any other provision of this chapter, the
20 arrest disposition report certified by the Department of Justice, or
21 documents admissible in a criminal action pursuant to Section
22 969b of the Penal Code, shall be prima facie evidence of the
23 conviction, notwithstanding any other provision of law prohibiting
24 the admission of these documents in a civil or administrative action.

25 (2) For purposes of this section or any other provision of this
26 chapter, the department shall consider criminal convictions from
27 another state or federal court as if the criminal offense was
28 committed in this state.

29 (g) (1) After review of the record, the director may grant an
30 exemption from disqualification for a license or special permit as
31 specified in paragraphs (1) and (4) of subdivision (a), or for a
32 license, special permit, or certificate of approval as specified in
33 paragraphs (4) and (5) of subdivision (d), or for employment,
34 residence, or presence in a community care facility as specified in
35 paragraphs (3), (4), and (5) of subdivision (c), if the director has
36 substantial and convincing evidence to support a reasonable belief
37 that the applicant and the person convicted of the crime, if other
38 than the applicant, are of good character as to justify issuance of
39 the license or special permit or granting an exemption for purposes
40 of subdivision (c). Except as otherwise provided in this subdivision,

1 an exemption may not be granted pursuant to this subdivision if
2 the conviction was for any of the following offenses:

3 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
4 subdivision (a) of Section 273a or, prior to January 1, 1994,
5 paragraph (1) of Section 273a, Section 273d, 288, or 289,
6 subdivision (c) of Section 290, or Section 368 of the Penal Code,
7 or was a conviction of another crime against an individual specified
8 in subdivision (c) of Section 667.5 of the Penal Code.

9 (ii) Notwithstanding clause (i), the director may grant an
10 exemption regarding the conviction for an offense described in
11 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
12 of the Penal Code, if the employee or prospective employee has
13 been rehabilitated as provided in Section 4852.03 of the Penal
14 Code, has maintained the conduct required in Section 4852.05 of
15 the Penal Code for at least 10 years, and has the recommendation
16 of the district attorney representing the employee's county of
17 residence, or if the employee or prospective employee has received
18 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
19 with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

20 (B) A felony offense specified in Section 729 of the Business
21 and Professions Code or Section 206 or 215, subdivision (a) of
22 Section 347, subdivision (b) of Section 417, or subdivision (a) of
23 Section 451 of the Penal Code.

24 (2) The department may not prohibit a person from being
25 employed or having contact with clients in a facility on the basis
26 of a denied criminal record exemption request or arrest information
27 unless the department complies with the requirements of Section
28 1558.

29 (h) (1) For purposes of compliance with this section, the
30 department may permit an individual to transfer a current criminal
31 record clearance, as defined in subdivision (a), from one facility
32 to another, as long as the criminal record clearance has been
33 processed through a state licensing district office, and is being
34 transferred to another facility licensed by a state licensing district
35 office. The request shall be in writing to the State Department of
36 Social Services, and shall include a copy of the person's driver's
37 license or valid identification card issued by the Department of
38 Motor Vehicles, or a valid photo identification issued by another
39 state or the United States government if the person is not a
40 California resident. Upon request of the licensee, who shall enclose

1 a self-addressed envelope for this purpose, the State Department
2 of Social Services shall verify whether the individual has a
3 clearance that can be transferred.

4 (2) The State Department of Social Services shall hold criminal
5 record clearances in its active files for a minimum of two years
6 after an employee is no longer employed at a licensed facility in
7 order for the criminal record clearance to be transferred.

8 (3) The following shall apply to a criminal record clearance or
9 exemption from the department or a county office with
10 department-delegated licensing authority:

11 (A) A county office with department-delegated licensing
12 authority may accept a clearance or exemption from the
13 department.

14 (B) The department may accept a clearance or exemption from
15 any county office with department-delegated licensing authority.

16 (C) A county office with department-delegated licensing
17 authority may accept a clearance or exemption from any other
18 county office with department-delegated licensing authority.

19 (4) With respect to notifications issued by the Department of
20 Justice pursuant to Section 11105.2 of the Penal Code concerning
21 an individual whose criminal record clearance was originally
22 processed by the department or a county office with
23 department-delegated licensing authority, all of the following shall
24 apply:

25 (A) The Department of Justice shall process a request from the
26 department or a county office with department-delegated licensing
27 authority to receive the notice only if all of the following conditions
28 are met:

29 (i) The request shall be submitted to the Department of Justice
30 by the agency to be substituted to receive the notification.

31 (ii) The request shall be for the same applicant type as the type
32 for which the original clearance was obtained.

33 (iii) The request shall contain all prescribed data elements and
34 format protocols pursuant to a written agreement between the
35 department and the Department of Justice.

36 (B) (i) On or before January 7, 2005, the department shall notify
37 the Department of Justice of all county offices that have
38 department-delegated licensing authority.

39 (ii) The department shall notify the Department of Justice within
40 15 calendar days of the date on which a new county office receives

1 department-delegated licensing authority or a county's delegated
2 licensing authority is rescinded.

3 (C) The Department of Justice shall charge the department, a
4 county office with department-delegated licensing authority, or a
5 county child welfare agency with criminal record clearance and
6 exemption authority, a fee for each time a request to substitute the
7 recipient agency is received for purposes of this paragraph. This
8 fee shall not exceed the cost of providing the service.

9 (5) (A) A county child welfare agency with authority to secure
10 clearances pursuant to Section 16504.5 of the Welfare and
11 Institutions Code and to grant exemptions pursuant to Section
12 361.4 of the Welfare and Institutions Code may accept a clearance
13 or exemption from another county with criminal record and
14 exemption authority pursuant to these sections.

15 (B) With respect to notifications issued by the Department of
16 Justice pursuant to Section 11105.2 of the Penal Code concerning
17 an individual whose criminal record clearance was originally
18 processed by a county child welfare agency with criminal record
19 clearance and exemption authority, the Department of Justice shall
20 process a request from a county child welfare agency with criminal
21 record and exemption authority to receive the notice only if all of
22 the following conditions are met:

23 (i) The request shall be submitted to the Department of Justice
24 by the agency to be substituted to receive the notification.

25 (ii) The request shall be for the same applicant type as the type
26 for which the original clearance was obtained.

27 (iii) The request shall contain all prescribed data elements and
28 format protocols pursuant to a written agreement between the State
29 Department of Social Services and the Department of Justice.

30 (i) The full criminal record obtained for purposes of this section
31 may be used by the department or by a licensed adoption agency
32 as a clearance required for adoption purposes.

33 (j) If a licensee or facility is required by law to deny employment
34 or to terminate employment of any employee based on written
35 notification from the state department that the employee has a prior
36 criminal conviction or is determined unsuitable for employment
37 under Section 1558, the licensee or facility shall not incur civil
38 liability or unemployment insurance liability as a result of that
39 denial or termination.

1 (k) The State Department of Social Services may charge a fee
2 for the costs of processing electronic fingerprint images and related
3 information.

4 (l) Amendments to this section made in the 1999 portion of the
5 1999–2000 Regular Session shall be implemented commencing
6 60 days after the effective date of the act amending this section in
7 the 1999 portion of the 1999–2000 Regular Session, except that
8 those provisions for the submission of fingerprints for searching
9 the records of the Federal Bureau of Investigation shall be
10 implemented 90 days after the effective date of that act.

11 *SEC. 19. Section 1596.871 of the Health and Safety Code is*
12 *amended to read:*

13 1596.871. The Legislature recognizes the need to generate
14 timely and accurate positive fingerprint identification of applicants
15 as a condition of issuing licenses, permits, or certificates of
16 approval for persons to operate or provide direct care services in
17 a child care center or family child care home. It is the intent of the
18 Legislature in enacting this section to require the fingerprints of
19 those individuals whose contact with child day care facility clients
20 may pose a risk to the children’s health and safety. An individual
21 shall be required to obtain either a criminal record clearance or a
22 criminal record exemption from the State Department of Social
23 Services before his or her initial presence in a child day care
24 facility.

25 (a) (1) Before issuing a license or special permit to any person
26 to operate or manage a day care facility, the department shall secure
27 from an appropriate law enforcement agency a criminal record to
28 determine whether the applicant or any other person specified in
29 subdivision (b) has ever been convicted of a crime other than a
30 minor traffic violation or arrested for any crime specified in
31 subdivision (c) of Section 290 of the Penal Code, for violating
32 Section 245 or 273.5, subdivision (b) of Section 273a or, prior to
33 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
34 or for any crime for which the department cannot grant an
35 exemption if the person was convicted and the person has not been
36 exonerated.

37 (2) The criminal history information shall include the full
38 criminal record, if any, of those persons, and subsequent arrest
39 information pursuant to Section 11105.2 of the Penal Code.

1 (3) Except during the 2003–04, 2004–05, 2005–06, 2006–07,
2 and 2007–08 fiscal years through 2009–10 fiscal years, inclusive,
3 neither the Department of Justice nor the department may charge
4 a fee for the fingerprinting of an applicant who will serve six or
5 fewer children or any family day care applicant for a license, or
6 for obtaining a criminal record of an applicant pursuant to this
7 section.

8 (4) The following shall apply to the criminal record information:

9 (A) If the State Department of Social Services finds that the
10 applicant or any other person specified in subdivision (b) has been
11 convicted of a crime, other than a minor traffic violation, the
12 application shall be denied, unless the director grants an exemption
13 pursuant to subdivision (f).

14 (B) If the State Department of Social Services finds that the
15 applicant, or any other person specified in subdivision (b), is
16 awaiting trial for a crime other than a minor traffic violation, the
17 State Department of Social Services may cease processing the
18 application until the conclusion of the trial.

19 (C) If no criminal record information has been recorded, the
20 Department of Justice shall provide the applicant and the State
21 Department of Social Services with a statement of that fact.

22 (D) If the State Department of Social Services finds after
23 licensure that the licensee, or any other person specified in
24 paragraph (2) of subdivision (b), has been convicted of a crime
25 other than a minor traffic violation, the license may be revoked,
26 unless the director grants an exemption pursuant to subdivision
27 (f).

28 (E) An applicant and any other person specified in subdivision
29 (b) shall submit fingerprint images and related information to the
30 Department of Justice and the Federal Bureau of Investigation,
31 through the Department of Justice, for a state and federal level
32 criminal offender record information search, in addition to the
33 search required by subdivision (a). If an applicant meets all other
34 conditions for licensure, except receipt of the Federal Bureau of
35 Investigation’s criminal history information for the applicant and
36 persons listed in subdivision (b), the department may issue a license
37 if the applicant and each person described by subdivision (b) has
38 signed and submitted a statement that he or she has never been
39 convicted of a crime in the United States, other than a traffic
40 infraction as defined in paragraph (1) of subdivision (a) of Section

1 42001 of the Vehicle Code. If, after licensure, the department
2 determines that the licensee or person specified in subdivision (b)
3 has a criminal record, the license may be revoked pursuant to
4 Section 1596.885. The department may also suspend the license
5 pending an administrative hearing pursuant to Section 1596.886.

6 (b) (1) In addition to the applicant, this section shall be
7 applicable to criminal convictions of the following persons:

8 (A) Adults responsible for administration or direct supervision
9 of staff.

10 (B) Any person, other than a child, residing in the facility.

11 (C) Any person who provides care and supervision to the
12 children.

13 (D) Any staff person, volunteer, or employee who has contact
14 with the children.

15 (i) A volunteer providing time-limited specialized services shall
16 be exempt from the requirements of this subdivision if this person
17 is directly supervised by the licensee or a facility employee with
18 a criminal record clearance or exemption, the volunteer spends no
19 more than 16 hours per week at the facility, and the volunteer is
20 not left alone with children in care.

21 (ii) A student enrolled or participating at an accredited
22 educational institution shall be exempt from the requirements of
23 this subdivision if the student is directly supervised by the licensee
24 or a facility employee with a criminal record clearance or
25 exemption, the facility has an agreement with the educational
26 institution concerning the placement of the student, the student
27 spends no more than 16 hours per week at the facility, and the
28 student is not left alone with children in care.

29 (iii) A volunteer who is a relative, legal guardian, or foster parent
30 of a client in the facility shall be exempt from the requirements of
31 this subdivision.

32 (iv) A contracted repair person retained by the facility, if not
33 left alone with children in care, shall be exempt from the
34 requirements of this subdivision.

35 (v) Any person similar to those described in this subdivision,
36 as defined by the department in regulations.

37 (E) If the applicant is a firm, partnership, association, or
38 corporation, the chief executive officer, other person serving in
39 like capacity, or a person designated by the chief executive officer

1 as responsible for the operation of the facility, as designated by
2 the applicant agency.

3 (F) If the applicant is a local educational agency, the president
4 of the governing board, the school district superintendent, or a
5 person designated to administer the operation of the facility, as
6 designated by the local educational agency.

7 (G) Additional officers of the governing body of the applicant,
8 or other persons with a financial interest in the applicant, as
9 determined necessary by the department by regulation. The criteria
10 used in the development of these regulations shall be based on the
11 person's capability to exercise substantial influence over the
12 operation of the facility.

13 (H) This section does not apply to employees of child care and
14 development programs under contract with the State Department
15 of Education who have completed a criminal record clearance as
16 part of an application to the Commission on Teacher Credentialing,
17 and who possess a current credential or permit issued by the
18 commission, including employees of child care and development
19 programs that serve both children subsidized under, and children
20 not subsidized under, a State Department of Education contract.
21 The Commission on Teacher Credentialing shall notify the
22 department upon revocation of a current credential or permit issued
23 to an employee of a child care and development program under
24 contract with the State Department of Education.

25 (I) This section does not apply to employees of a child care and
26 development program operated by a school district, county office
27 of education, or community college district under contract with
28 the State Department of Education who have completed a criminal
29 record clearance as a condition of employment. The school district,
30 county office of education, or community college district upon
31 receiving information that the status of an employee's criminal
32 record clearance has changed shall submit that information to the
33 department.

34 (2) Nothing in this subdivision shall prevent a licensee from
35 requiring a criminal record clearance of any individuals exempt
36 from the requirements under this subdivision.

37 (c) (1) (A) Subsequent to initial licensure, any person specified
38 in subdivision (b) and not exempted from fingerprinting shall, as
39 a condition to employment, residence, or presence in a child day
40 care facility be fingerprinted and sign a declaration under penalty

1 of perjury regarding any prior criminal conviction. The licensee
2 shall submit fingerprint images and related information to the
3 Department of Justice and the Federal Bureau of Investigation,
4 through the Department of Justice, or to comply with paragraph
5 (1) of subdivision (h), prior to the person's employment, residence,
6 or initial presence in the child day care facility.

7 (B) These fingerprint images for the purpose of obtaining a
8 permanent set of fingerprints shall be electronically submitted to
9 the Department of Justice in a manner approved by the State
10 Department of Social Services and to the Department of Justice,
11 or to comply with paragraph (1) of subdivision (h), as required in
12 this section, shall result in the citation of a deficiency, and an
13 immediate assessment of civil penalties in the amount of one
14 hundred dollars (\$100) per violation per day for a maximum of
15 five days, unless the violation is a second or subsequent violation
16 within a 12-month period in which case the civil penalties shall
17 be in the amount of one hundred dollars (\$100) per violation for
18 a maximum of 30 days, and shall be grounds for disciplining the
19 licensee pursuant to Section 1596.885 or Section 1596.886. The
20 State Department of Social Services may assess civil penalties for
21 continued violations permitted by Sections 1596.99 and 1597.62.
22 The fingerprint images and related information shall then be
23 submitted to the department for processing. Within 14 calendar
24 days of the receipt of the fingerprint images, the Department of
25 Justice shall notify the State Department of Social Services of the
26 criminal record information, as provided in this subdivision. If no
27 criminal record information has been recorded, the Department of
28 Justice shall provide the licensee and the State Department of
29 Social Services with a statement of that fact within 14 calendar
30 days of receipt of the fingerprint images. If new fingerprint images
31 are required for processing, the Department of Justice shall, within
32 14 calendar days from the date of receipt of the fingerprint images,
33 notify the licensee that the fingerprints were illegible.

34 (C) Documentation of the individual's clearance or exemption
35 shall be maintained by the licensee, and shall be available for
36 inspection. When live-scan technology is operational, as defined
37 in Section 1522.04, the Department of Justice shall notify the
38 department, as required by that section, and notify the licensee by
39 mail within 14 days of electronic transmission of the fingerprints
40 to the Department of Justice, if the person has no criminal record.

1 Any violation of the regulations adopted pursuant to Section
2 1522.04 shall result in the citation of a deficiency and an immediate
3 assessment of civil penalties in the amount of one hundred dollars
4 (\$100) per violation per day for a maximum of five days, unless
5 the violation is a second or subsequent violation within a 12-month
6 period in which case the civil penalties shall be in the amount of
7 one hundred dollars (\$100) per violation for a maximum of 30
8 days, and shall be grounds for disciplining the licensee pursuant
9 to Section 1596.885 or Section 1596.886. The department may
10 assess civil penalties for continued violations, as permitted by
11 Sections 1596.99 and 1597.62.

12 (2) Except for persons specified in paragraph (2) of subdivision
13 (b), the licensee shall endeavor to ascertain the previous
14 employment history of persons required to be fingerprinted under
15 this subdivision. If it is determined by the department, on the basis
16 of fingerprints submitted to the Department of Justice, that the
17 person has been convicted of a sex offense against a minor, an
18 offense specified in Section 243.4, 273a, 273d, 273g, or 368 of
19 the Penal Code, or a felony, the State Department of Social
20 Services shall notify the licensee to act immediately to terminate
21 the person's employment, remove the person from the child day
22 care facility, or bar the person from entering the child day care
23 facility. The department may subsequently grant an exemption
24 pursuant to subdivision (f). If the conviction was for another crime
25 except a minor traffic violation, the licensee shall, upon notification
26 by the State Department of Social Services, act immediately to
27 either (1) terminate the person's employment, remove the person
28 from the child day care facility, or bar the person from entering
29 the child day care facility; or (2) seek an exemption pursuant to
30 subdivision (f). The department shall determine if the person shall
31 be allowed to remain in the facility until a decision on the
32 exemption is rendered. A licensee's failure to comply with the
33 department's prohibition of employment, contact with clients, or
34 presence in the facility as required by this paragraph shall result
35 in a citation of deficiency and an immediate assessment of civil
36 penalties by the department against the licensee, in the amount of
37 one hundred dollars (\$100) per violation per day for a maximum
38 of five days, unless the violation is a second or subsequent violation
39 within a 12-month period in which case the civil penalties shall
40 be in the amount of one hundred dollars (\$100) per violation for

1 a maximum of 30 days, and shall be grounds for disciplining the
2 licensee pursuant to Section 1596.885 or 1596.886.

3 (3) The department may issue an exemption on its own motion
4 pursuant to subdivision (f) if the person’s criminal history indicates
5 that the person is of good character based on the age, seriousness,
6 and frequency of the conviction or convictions. The department,
7 in consultation with interested parties, shall develop regulations
8 to establish the criteria to grant an exemption pursuant to this
9 paragraph.

10 (4) Concurrently with notifying the licensee pursuant to
11 paragraph (3), the department shall notify the affected individual
12 of his or her right to seek an exemption pursuant to subdivision
13 (f). The individual may seek an exemption only if the licensee
14 terminates the person’s employment or removes the person from
15 the facility after receiving notice from the department pursuant to
16 paragraph (3).

17 (d) (1) For purposes of this section or any other provision of
18 this chapter, a conviction means a plea or verdict of guilty or a
19 conviction following a plea of nolo contendere. Any action that
20 the department is permitted to take following the establishment of
21 a conviction may be taken when the time for appeal has elapsed,
22 when the judgment of conviction has been affirmed on appeal, or
23 when an order granting probation is made suspending the
24 imposition of sentence, notwithstanding a subsequent order
25 pursuant to Sections 1203.4 and 1203.4a of the Penal Code
26 permitting the person to withdraw his or her plea of guilty and to
27 enter a plea of not guilty, or setting aside the verdict of guilty, or
28 dismissing the accusation, information, or indictment. For purposes
29 of this section or any other provision of this chapter, the record of
30 a conviction, or a copy thereof certified by the clerk of the court
31 or by a judge of the court in which the conviction occurred, shall
32 be conclusive evidence of the conviction. For purposes of this
33 section or any other provision of this chapter, the arrest disposition
34 report certified by the Department of Justice, or documents
35 admissible in a criminal action pursuant to Section 969b of the
36 Penal Code, shall be prima facie evidence of conviction,
37 notwithstanding any other provision of law prohibiting the
38 admission of these documents in a civil or administrative action.

39 (2) For purposes of this section or any other provision of this
40 chapter, the department shall consider criminal convictions from

1 another state or federal court as if the criminal offense was
2 committed in this state.

3 (e) The State Department of Social Services may not use a
4 record of arrest to deny, revoke, or terminate any application,
5 license, employment, or residence unless the department
6 investigates the incident and secures evidence, whether or not
7 related to the incident of arrest, that is admissible in an
8 administrative hearing to establish conduct by the person that may
9 pose a risk to the health and safety of any person who is or may
10 become a client. The State Department of Social Services is
11 authorized to obtain any arrest or conviction records or reports
12 from any law enforcement agency as necessary to the performance
13 of its duties to inspect, license, and investigate community care
14 facilities and individuals associated with a community care facility.

15 (f) (1) After review of the record, the director may grant an
16 exemption from disqualification for a license or special permit as
17 specified in paragraphs (1) and (4) of subdivision (a), or for
18 employment, residence, or presence in a child day care facility as
19 specified in paragraphs (3), (4), and (5) of subdivision (c) if the
20 director has substantial and convincing evidence to support a
21 reasonable belief that the applicant and the person convicted of
22 the crime, if other than the applicant, are of good character so as
23 to justify issuance of the license or special permit or granting an
24 exemption for purposes of subdivision (c). However, an exemption
25 may not be granted pursuant to this subdivision if the conviction
26 was for any of the following offenses:

27 (A) An offense specified in Section 220, 243.4, or 264.1,
28 subdivision (a) of Section 273a or, prior to January 1, 1994,
29 paragraph (1) of Section 273a, Section 273d, 288, or 289,
30 subdivision (c) of Section 290, or Section 368 of the Penal Code,
31 or was a conviction of another crime against an individual specified
32 in subdivision (c) of Section 667.5 of the Penal Code.

33 (B) A felony offense specified in Section 729 of the Business
34 and Professions Code or Section 206 or 215, subdivision (a) of
35 Section 347, subdivision (b) of Section 417, or subdivision (a) or
36 (b) of Section 451 of the Penal Code.

37 (2) The department may not prohibit a person from being
38 employed or having contact with clients in a facility on the basis
39 of a denied criminal record exemption request or arrest information

1 unless the department complies with the requirements of Section
2 1596.8897.

3 (g) Upon request of the licensee, who shall enclose a
4 self-addressed stamped postcard for this purpose, the Department
5 of Justice shall verify receipt of the fingerprint images.

6 (h) (1) For the purposes of compliance with this section, the
7 department may permit an individual to transfer a current criminal
8 record clearance, as defined in subdivision (a), from one facility
9 to another, as long as the criminal record clearance has been
10 processed through a state licensing district office, and is being
11 transferred to another facility licensed by a state licensing district
12 office. The request shall be in writing to the department, and shall
13 include a copy of the person's driver's license or valid
14 identification card issued by the Department of Motor Vehicles,
15 or a valid photo identification issued by another state or the United
16 States government if the person is not a California resident. Upon
17 request of the licensee, who shall enclose a self-addressed stamped
18 envelope for this purpose, the department shall verify whether the
19 individual has a clearance that can be transferred.

20 (2) The State Department of Social Services shall hold criminal
21 record clearances in its active files for a minimum of two years
22 after an employee is no longer employed at a licensed facility in
23 order for the criminal record clearances to be transferred.

24 (3) The following shall apply to a criminal record clearance or
25 exemption from the department or a county office with
26 department-delegated licensing authority:

27 (A) A county office with department-delegated licensing
28 authority may accept a clearance or exemption from the
29 department.

30 (B) The department may accept a clearance or exemption from
31 any county office with department-delegated licensing authority.

32 (C) A county office with department-delegated licensing
33 authority may accept a clearance or exemption from any other
34 county office with department-delegated licensing authority.

35 (4) With respect to notifications issued by the Department of
36 Justice pursuant to Section 11105.2 of the Penal Code concerning
37 an individual whose criminal record clearance was originally
38 processed by the department or a county office with
39 department-delegated licensing authority, all of the following shall
40 apply:

1 (A) The Department of Justice shall process a request from the
2 department or a county office with department-delegated licensing
3 authority to receive the notice, only if all of the following
4 conditions are met:

5 (i) The request shall be submitted to the Department of Justice
6 by the agency to be substituted to receive the notification.

7 (ii) The request shall be for the same applicant type as the type
8 for which the original clearance was obtained.

9 (iii) The request shall contain all prescribed data elements and
10 format protocols pursuant to a written agreement between the
11 department and the Department of Justice.

12 (B) (i) On or before January 7, 2005, the department shall notify
13 the Department of Justice of all county offices that have
14 department-delegated licensing authority.

15 (ii) The department shall notify the Department of Justice within
16 15 calendar days of the date on which a new county office receives
17 department-delegated licensing authority or a county's delegated
18 licensing authority is rescinded.

19 (C) The Department of Justice shall charge the department or
20 a county office with department-delegated licensing authority a
21 fee for each time a request to substitute the recipient agency is
22 received for purposes of this paragraph. This fee shall not exceed
23 the cost of providing the service.

24 (i) Notwithstanding any other provision of law, the department
25 may provide an individual with a copy of his or her state or federal
26 level criminal offender record information search response as
27 provided to that department by the Department of Justice if the
28 department has denied a criminal background clearance based on
29 this information and the individual makes a written request to the
30 department for a copy specifying an address to which it is to be
31 sent. The state or federal level criminal offender record information
32 search response shall not be modified or altered from its form or
33 content as provided by the Department of Justice and shall be
34 provided to the address specified by the individual in his or her
35 written request. The department shall retain a copy of the
36 individual's written request and the response and date provided.

37 *SEC. 20. Section 11758.42 of the Health and Safety Code is*
38 *amended to read:*

39 11758.42. (a) For purposes of this chapter, "LAAM" means
40 levoalphacetylmethadol.

1 (b) (1) The department shall establish a narcotic replacement
 2 therapy dosing fee for methadone and LAAM.

3 (2) In addition to the narcotic replacement therapy dosing fee
 4 provided for pursuant to paragraph (1), narcotic treatment programs
 5 shall be reimbursed for the ingredient costs of methadone or LAAM
 6 dispensed to Medi-Cal beneficiaries. These costs may be
 7 determined on an average daily dose of methadone or LAAM, as
 8 set forth by the department, in consultation with the State
 9 Department of Health *Care Services*.

10 (c) Reimbursement for narcotic replacement therapy dosing and
 11 ancillary services provided by narcotic treatment programs shall
 12 be based on a per capita uniform statewide ~~monthly~~ *daily*
 13 reimbursement rate for each individual patient, as established by
 14 the department, in consultation with the State Department of Health
 15 *Care Services*. The uniform statewide ~~monthly~~ *daily* reimbursement
 16 rate for narcotic replacement therapy dosing and ancillary services
 17 shall be based upon, where available and appropriate, all of the
 18 following:

19 (1) The outpatient rates for the same or similar services under
 20 the fee-for-service Medi-Cal program.

21 (2) Cost report data.

22 (3) Other data deemed reliable and relevant by the department.

23 (4) The rate studies completed pursuant to Section 54 of
 24 Assembly Bill 3483 of the 1995–96 Regular Session of the
 25 Legislature.

26 (d) The uniform statewide ~~monthly~~ *daily* reimbursement rate
 27 for ancillary services shall not exceed, for individual services or
 28 in the aggregate, the outpatient rates for the same or similar services
 29 under the fee-for-service Medi-Cal program.

30 (e) The uniform statewide ~~monthly~~ *daily* reimbursement rate
 31 shall be established after consultation with narcotic treatment
 32 program providers and county alcohol and drug program
 33 administrators.

34 (f) Reimbursement for narcotic treatment program services shall
 35 be limited to those services specified in state law and state and
 36 federal regulations governing the licensing and administration of
 37 narcotic treatment programs. These services shall include, but are
 38 not limited to, all of the following:

39 (1) Admission, physical evaluation, and diagnosis.

40 (2) Drug screening.

1 (3) Pregnancy tests.

2 (4) Narcotic replacement therapy dosing.

3 (5) Intake assessment, treatment planning, and counseling
4 services. Frequency of counseling or medical psychotherapy,
5 outcomes, and rates shall be addressed through regulations adopted
6 by the department. For purposes of this paragraph, these services
7 include, but are not limited to, substance abuse services to pregnant
8 and postpartum Medi-Cal beneficiaries.

9 (g) Reimbursement under this section shall be limited to claims
10 for narcotic treatment program services at the uniform statewide
11 ~~monthly~~ *daily* reimbursement rate for these services. These rates
12 shall be exempt from the requirements of Section 14021.6 of the
13 Welfare and Institutions Code.

14 (h) (1) Reimbursement to narcotic treatment program providers
15 shall be limited to the lower of either the uniform statewide
16 ~~monthly~~ *daily* reimbursement rate, pursuant to subdivision (c), or
17 the provider's usual and customary charge to the general public
18 for the same or similar service.

19 (2) (A) Reimbursement paid by a county to a narcotic treatment
20 program provider for services provided to any person subject to
21 Section 1210.1 or 3063.1 of the Penal Code, and for which the
22 individual client is not liable to pay, does not constitute a usual
23 and customary charge to the general public for the purposes of this
24 section.

25 (B) Subparagraph (A) does not constitute a change in, but is
26 declaratory of, existing law.

27 ~~(i) Reimbursement for narcotic treatment program services
28 provided by narcotic treatment program providers shall, if the
29 patient receives less than a full month of services, be prorated to
30 the daily cost per patient, based on the annual cost per patient and
31 a 365-day year. No program shall be reimbursed for services not
32 rendered to or received by a patient of a narcotic treatment
33 program.~~

34 (j) Reimbursement for narcotic treatment program services
35 provided to substance abusers shall be administered by the
36 department and counties electing to participate in the program.
37 Utilization and payment for these services shall be subject to
38 federal ~~medicaid~~ *Medicaid* and state utilization and audit
39 requirements.

1 *SEC. 21. Section 11758.421 of the Health and Safety Code is*
2 *amended to read:*

3 11758.421. (a) (1) The Legislature finds and declares all of
4 the following:

5 (A) Medical treatment for indigent patients who are not eligible
6 for Medi-Cal is essential to protecting the public health.

7 (B) The Legislature supports the adoption of standardized and
8 simplified forms and procedures in order to promote the drug
9 treatment of indigent patients who are not eligible for Medi-Cal.

10 (C) Providers should not be required by the state to subsidize
11 the medical treatment provided to indigent patients who are not
12 eligible for Medi-Cal.

13 (D) The Legislature supports the therapeutic value of indigent
14 patients who are not eligible for Medi-Cal contributing some level
15 of fees for drug treatment services in order to support the goals of
16 those drug treatment services.

17 (2) It is the intent of the Legislature in enacting this section to
18 encourage narcotic treatment program providers to serve indigent
19 patients who are not eligible for Medi-Cal. It is also the intent of
20 the Legislature that the State Department of Alcohol and Drug
21 Programs allow narcotic treatment program providers to charge
22 therapeutic fees for providing drug treatment to indigent patients
23 who are not eligible for Medi-Cal if the providers establish a fee
24 scale that complies with the documentation requirements
25 established pursuant to this section and federal law.

26 (b) (1) The Legislature recognizes that narcotic treatment
27 program providers are reimbursed for controlled substances
28 provided under the Medi-Cal Drug Treatment Program, also known
29 as Drug Medi-Cal (Chapter 3.4 (commencing with Section
30 11758.40)), and pursuant to federal law at a rate that is the lower
31 of the per capita uniform statewide ~~monthly~~ *daily* reimbursement
32 or Drug Medi-Cal rate, or the provider's usual and customary
33 charge to the general public for the same or similar services.

34 (2) It furthers the intent of the Legislature to ensure that narcotic
35 treatment programs in the state are able to serve indigent clients
36 and that there is an exception to the reimbursement requirements
37 described in paragraph (1), as the federal law has been interpreted
38 by representatives with the Centers for Medicare and Medicaid
39 Services. Pursuant to this exception, if a narcotic treatment program
40 provider who is serving low-income non-Drug Medi-Cal clients

1 complies with a federal requirement for the application of a sliding
2 indigency scale, the reduced charges under the sliding indigency
3 scale shall not lower the provider's usual and customary charge
4 determination for purposes of Medi-Cal reimbursement.

5 (c) A licensed narcotic treatment program provider that serves
6 low-income non-Drug Medi-Cal clients shall be deemed in
7 compliance with federal and state law, for purposes of the
8 application of the exception described in paragraph (2) of
9 subdivision (b), and avoid audit disallowances, if the provider
10 implements a sliding indigency scale that meets all of the following
11 requirements:

12 (1) The maximum fee contained in the scale shall be the
13 provider's full nondiscounted, published charge and shall be at
14 least the rate that Drug Medi-Cal would pay for the same or similar
15 services provided to Drug Medi-Cal clients.

16 (2) The sliding indigency scale shall provide for an array of
17 different charges, based upon a client's ability to pay, as measured
18 by identifiable variables. These variables may include, but need
19 not be limited to, financial information and the number of
20 dependents of the client.

21 (3) Income ranges shall be in increments that result in a
22 reasonable distribution of clients paying differing amounts for
23 services based on differing abilities to pay.

24 (4) A provider shall obtain written documentation that supports
25 an indigency allowance under the sliding indigency scale
26 established pursuant to this section, including a financial
27 determination. In cases where this written documentation cannot
28 be obtained, the provider shall document at least three attempts to
29 obtain this written documentation from a client.

30 (5) The provider shall maintain all written documentation that
31 supports an indigency allowance under this section, including, if
32 used, the financial evaluation form set forth in Section 11758.425.

33 (6) Written policies shall be established and maintained that set
34 forth the basis for determining whether an indigency allowance
35 may be granted under this section and establish what
36 documentation shall be requested from a client.

37 (d) In developing the sliding indigency scale, a narcotic
38 treatment program provider shall consider, but need not include,
39 any or all of the following components:

1 (1) Vertically, the rows would reflect increments of family or
2 household income. There would be a sufficient number of
3 increments to allow for differing charges, such as a six hundred
4 dollar (\$600) increase per interval.

5 (2) Horizontally, the columns would provide for some other
6 variable, such as family size, in which case, the columns would
7 reflect the number of people dependent on the income, including
8 the client.

9 (3) Each row, except the first and last rows, would contain at
10 least two different fee amounts and each of the columns, four or
11 more in number, would contain at least six different fee amounts.

12 (4) The cells would contain an array of fees so that no fee would
13 be represented in more than 25 percent of the cells.

14 (e) A narcotic treatment program provider that uses the financial
15 evaluation form instructions and financial form set forth in Section
16 11758.425 in obtaining written documentation that supports an
17 indigency allowance as required under paragraph (4) of subdivision
18 (c) shall be deemed in compliance with that paragraph.

19 *SEC. 22. Section 11758.46 of the Health and Safety Code is*
20 *amended to read:*

21 11758.46. (a) For purposes of this section, “Drug Medi-Cal
22 services” means all of the following services, administered by the
23 department, and to the extent consistent with state and federal law:

24 (1) Narcotic treatment program services, as set forth in Section
25 11758.42.

26 (2) Day care rehabilitative services.

27 (3) Perinatal residential services for pregnant women and women
28 in the postpartum period.

29 (4) Naltrexone services.

30 (5) Outpatient drug-free services.

31 (b) Upon federal approval of a federal ~~medicaid~~ *Medicaid* state
32 plan amendment authorizing federal financial participation in the
33 following services, and subject to appropriation of funds, “Drug
34 Medi-Cal services” shall also include the following services,
35 administered by the department, and to the extent consistent with
36 state and federal law:

37 (1) Notwithstanding subdivision (a) of Section 14132.90 of the
38 Welfare and Institutions Code, day care habilitative services,
39 which, for purposes of this paragraph, are outpatient counseling

1 and rehabilitation services provided to persons with alcohol or
2 other drug abuse diagnoses.

3 (2) Case management services, including supportive services
4 to assist persons with alcohol or other drug abuse diagnoses in
5 gaining access to medical, social, educational, and other needed
6 services.

7 (3) Aftercare services.

8 (c) (1) Annually, the department shall publish procedures for
9 contracting for Drug Medi-Cal services with certified providers
10 and for claiming payments, including procedures and specifications
11 for electronic data submission for services rendered.

12 (2) The department, county alcohol and drug program
13 administrators, and alcohol and drug service providers shall
14 automate the claiming process and the process for the submission
15 of specific data required in connection with reimbursement for
16 Drug Medi-Cal services, except that this requirement applies only
17 if funding is available from sources other than those made available
18 for treatment or other services.

19 (d) A county or a contractor for the provision of Drug Medi-Cal
20 services shall notify the department, within 30 days of the receipt
21 of the county allocation, of its intent to contract, as a component
22 of the single state-county contract, and provide certified services
23 pursuant to Section 11758.42, for the proposed budget year. The
24 notification shall include an accurate and complete budget proposal,
25 the structure of which shall be mutually agreed to by county alcohol
26 and drug program administrators and the department, in the format
27 provided by the department, for specific services, for a specific
28 time period, and including estimated units of service, estimated
29 rate per unit consistent with law and regulations, and total estimated
30 cost for appropriate services.

31 (e) (1) Within 30 days of receipt of the proposal described in
32 subdivision (d), the department shall provide, to counties and
33 contractors proposing to provide Drug Medi-Cal services in the
34 proposed budget year, a proposed multiple-year contract, as a
35 component of the single state-county contract, for these services,
36 a current utilization control plan, and appropriate administrative
37 procedures.

38 (2) A county contracting for alcohol and drug services shall
39 receive a single state-county contract for the net negotiated amount
40 and Drug Medi-Cal services.

1 (3) Contractors contracting for Drug Medi-Cal services shall
2 receive a Drug Medi-Cal contract.

3 (f) (1) Upon receipt of a contract proposal pursuant to
4 subdivision (d), a county and a contractor seeking to provide
5 reimbursable Drug Medi-Cal services and the department may
6 begin negotiations and the process for contract approval.

7 (2) If a county does not approve a contract by July 1 of the
8 appropriate fiscal year, in accordance with subdivisions (c) to (e),
9 inclusive, the county shall have 30 additional days in which to
10 approve a contract. If the county has not approved the contract by
11 the end of that 30-day period, the department shall contract directly
12 for services within 30 days.

13 (3) Counties shall negotiate contracts only with providers
14 certified to provide reimbursable Drug Medi-Cal services and that
15 elect to participate in this program. Upon contract approval by the
16 department, a county shall establish approved contracts with
17 certified providers within 30 days following enactment of the
18 annual Budget Act. A county may establish contract provisions to
19 ensure interim funding pending the execution of final contracts,
20 multiple-year contracts pending final annual approval by the
21 department, and, to the extent allowable under the annual Budget
22 Act, other procedures to ensure timely payment for services.

23 (g) (1) For counties and contractors providing Drug Medi-Cal
24 services, pursuant to approved contracts, and that have accurate
25 and complete claims, reimbursement for services from state General
26 Fund moneys shall commence no later than 45 days following the
27 enactment of the annual Budget Act for the appropriate state fiscal
28 year.

29 (2) For counties and contractors providing Drug Medi-Cal
30 services, pursuant to approved contracts, and that have accurate
31 and complete claims, reimbursement for services from federal
32 ~~medicaid~~ *Medicaid* funds shall commence no later than 45 days
33 following the enactment of the annual Budget Act for the
34 appropriate state fiscal year.

35 (3) The State Department of Health *Care* Services and the
36 department shall develop methods to ensure timely payment of
37 Drug Medi-Cal claims.

38 (4) The State Department of Health *Care* Services, in
39 cooperation with the department, shall take steps necessary to
40 streamline the billing system for reimbursable Drug Medi-Cal

1 services, to assist the department in meeting the billing provisions
2 set forth in this subdivision.

3 (h) The department shall submit a proposed interagency
4 agreement to the State Department of Health Care Services by
5 May 1 for the following fiscal year. Review and interim approval
6 of all contractual and programmatic requirements, except final
7 fiscal estimates, shall be completed by the State Department of
8 Health Care Services by July 1. The interagency agreement shall
9 not take effect until the annual Budget Act is enacted and fiscal
10 estimates are approved by the State Department of Health Care
11 Services. Final approval shall be completed within 45 days of
12 enactment of the Budget Act.

13 (i) (1) A county or a provider certified to provide reimbursable
14 Drug Medi-Cal services, that is contracting with the department,
15 shall estimate the cost of those services by April 1 of the fiscal
16 year covered by the contract, and shall amend current contracts,
17 as necessary, by the following July 1.

18 (2) A county or a provider, except for a provider to whom
19 subdivision (j) applies, shall submit accurate and complete cost
20 reports for the previous state fiscal year by November 1, following
21 the end of the state fiscal year. The department may settle cost for
22 Drug Medi-Cal services, based on the cost report as the final
23 amendment to the approved single state-county contract.

24 (j) Certified narcotic treatment program providers, that are
25 exclusively billing the state or the county for services rendered to
26 persons subject to Section 1210.1 of the Penal Code, Section
27 3063.1 of the Penal Code, or Section 11758.42 shall submit
28 accurate and complete performance reports for the previous state
29 fiscal year by November 1 following the end of that state fiscal
30 year. A provider to which this subdivision applies shall estimate
31 its budgets using the uniform state-monthly ~~monthly~~ daily reimbursement
32 rate. The format and content of the performance reports shall be
33 mutually agreed to by the department, the County Alcohol and
34 Drug Program Administrators Association of California, and
35 representatives of the treatment providers.

36 *SEC. 23. Section 10080.5 is added to the Welfare and*
37 *Institutions Code, to read:*

38 *10080.5. All duties and authority of the Franchise Tax Board*
39 *under this chapter are hereby transferred to the department. The*
40 *department shall succeed to and replace the Franchise Tax Board*

1 *in any agreement entered into by the board as the agent of the*
2 *department. Any agency between the department and the Franchise*
3 *Tax Board created by any other provision of this chapter is hereby*
4 *terminated. However, the department and the Franchise Tax Board*
5 *shall enter into an interagency agreement pursuant to this section*
6 *to continue any services necessary to be provided by the Franchise*
7 *Tax Board for the ongoing support of the California Child Support*
8 *Automation System. The interagency agreement may provide for*
9 *the transfer of staff from the Franchise Tax Board upon federal*
10 *notification that the single, statewide California Child Support*
11 *Automation System is implemented in all jurisdictions, or on*
12 *January 1, 2009, whichever is later.*

13 *SEC. 24. Section 10082 of the Welfare and Institutions Code*
14 *is amended to read:*

15 10082. (a) The department, through the Franchise Tax Board
16 as its agent, shall be responsible for procuring, ~~in accordance with~~
17 ~~Section 10083~~, developing, implementing, and maintaining the
18 operation of the California Child Support Automation System in
19 all California counties. This project shall, to the extent feasible,
20 use the same sound project management practices that the
21 Franchise Tax Board has developed in successful tax automation
22 efforts. The single statewide system shall be operative in all
23 California counties and shall also include the State Case Registry,
24 the State Disbursement Unit and all other necessary data bases and
25 interfaces. The system shall provide for the sharing of all data and
26 case files, standardized functions across all of the counties, timely
27 and accurate payment processing and centralized payment
28 disbursement from a single location in the state. The system may
29 be built in phases with payments contingent on acceptance of
30 agreed upon deliverables. As appropriate, additional payments
31 may be made to the vendors for predefined levels of higher
32 performance once the system is in operation.

33 (b) All ongoing interim automation activities apart from the
34 procurement, development, implementation, and maintenance of
35 the California Child Support Automation System, including Year
36 2000 remediation efforts and system conversions, shall remain
37 with the department, and shall not be the responsibility of the
38 Franchise Tax Board. However, the department shall ensure that
39 all interim automation activities are consistent with the
40 procurement, development, implementation, and maintenance of

1 the California Child Support Automation System by the Franchise
2 Tax Board ~~through the project charter described in Section 10083~~
3 ~~and~~ through continuous consultation.

4 (c) The department shall seek, at the earliest possible date, all
5 federal approvals and waivers necessary to secure financial
6 participation and system design approval of the California Child
7 Support Automation System.

8 (d) The department shall seek federal funding for the
9 maintenance and operation of all county child support automation
10 systems until the time that the counties transition to the California
11 Child Support Automation System.

12 (e) The department shall direct local child support agencies, if
13 it determines it is necessary, to modify their current automation
14 systems or change to a different system, in order to meet the goal
15 of statewide automation.

16 (f) Notwithstanding any state policies, procedures, or guidelines,
17 including those set forth in state manuals, all state agencies shall
18 cooperate with the ~~Franchise Tax Board~~ *department* to expedite
19 the procurement, development, implementation, and operation of
20 the California Child Support Automation System ~~and shall delegate~~
21 ~~to the Franchise Tax Board, to the fullest extent possible, all~~
22 ~~functions including acquisition authority as provided in Section~~
23 ~~12102 of the Public Contract Code, that may assist the Franchise~~
24 ~~Tax Board.~~ All state agencies shall give review processes affecting
25 the single statewide automation system ~~their highest priority and~~
26 expedite these review processes.

27 (g) The Franchise Tax Board shall employ the expertise needed
28 for the successful and efficient implementation of the single
29 statewide child support automation system and, therefore, shall be
30 provided three Career Executive Assignment Level 2 positions,
31 and may enter into personal services agreements with one or more
32 persons, at the prevailing market rates for the kind or quality of
33 services furnished, provided the agreements do not cause the net
34 displacement of civil service employees.

35 (h) All funds appropriated to the Franchise Tax Board for
36 purposes of this chapter shall be used in a manner consistent with
37 the authorized budget without any other limitations.

38 (i) The department and the Franchise Tax Board shall consult
39 with local child support agencies and child support advocates on

1 the implementation of the single statewide child support automation
 2 system.

3 (j) (1) Notwithstanding the provisions of the Administrative
 4 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
 5 Part 1 of Division 3 of Title 2 of the Government Code), through
 6 December 31, 2000, the department may implement the applicable
 7 provisions of this chapter through family support division letters
 8 or similar instructions from the director.

9 (2) The department may adopt regulations to implement this
 10 chapter in accordance with the Administrative Procedure Act,
 11 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
 12 3 of Title 2 of the Government Code. The adoption of any
 13 emergency regulation filed with the Office of Administrative Law
 14 on or before January 1, 2003, shall be deemed to be an emergency
 15 and necessary for the immediate preservation of the public peace,
 16 health, and safety or general welfare. These emergency regulations
 17 shall remain in effect for no more than 180 days.

18 *SEC. 25. Section 10083 of the Welfare and Institutions Code*
 19 *is repealed.*

20 ~~10083.—(a) The Franchise Tax Board, as agent for the~~
 21 ~~department, shall develop a procurement plan that employs, where~~
 22 ~~appropriate, techniques proven to be successful in the Franchise~~
 23 ~~Tax Board’s previous technology efforts and incorporates where~~
 24 ~~possible best practices from other government jurisdictions. The~~
 25 ~~procurement plan shall consider the events and circumstances that~~
 26 ~~contributed to the failure of the SACSS system and incorporate a~~
 27 ~~strategy for avoiding the repetition of those events and~~
 28 ~~circumstances and shall consider the findings and recommendations~~
 29 ~~made by the Bureau of State Audits in its evaluation of the failure~~
 30 ~~of the SACSS system.~~

31 ~~(b) Prior to procurement, the department and the Franchise Tax~~
 32 ~~Board shall develop a project charter that shall be approved by the~~
 33 ~~Executive Officer and Director of the Franchise Tax Board, the~~
 34 ~~director of the department, and the Secretary of the California~~
 35 ~~Health and Human Services Agency. The project charter shall~~
 36 ~~include governance structure, business requirements, project scope,~~
 37 ~~performance measures, contract authority, and all other elements~~
 38 ~~the department and the Franchise Tax Board deem necessary to~~
 39 ~~successfully manage the procurement, development,~~

1 implementation, and operation of the California Child Support
2 Automation System:

3 (e) The procurement plan, subject to federal approval, shall
4 include, but not be limited to elements, that accomplish the
5 following tasks:

6 (1) Provide for full and open competition among qualified
7 vendors. Vendors shall be prequalified based on factors such as
8 successful past performance and implementation of similar systems
9 in other government jurisdictions.

10 (2) Specify business outcomes to be achieved, not the solution
11 to be provided.

12 (3) Allow a period of confidential discussion and discovery to
13 develop and refine potential solutions to best meet the business
14 needs.

15 (4) Maximize the potential for competition and reduce time for
16 implementation by phasing in the project to the greatest extent
17 possible.

18 (5) Structure the plan to maintain maximum vendor commitment
19 to project success and minimize risk to the state by sharing risk
20 with the private sector.

21 (6) Utilize “best value” evaluation methods, which means to
22 select the solution based upon achieving the best solution based
23 on business performance measures not necessarily the lowest price.

24 (7) Consider the future ability of the selected system to provide
25 enhancements that will improve long-term effectiveness of child
26 support management.

27 (8) Base payments to the vendors primarily on achieving
28 predefined performance measures.

29 (d) The California Child Support Automation System shall
30 incorporate technology that can be readily enhanced and
31 modernized for the expected system life. In selecting the new
32 system, consideration shall be given to the extent to which the
33 candidate systems employ open architectures and standards.

34 (e) Notwithstanding any other provision of law, the department,
35 or the Franchise Tax Board, or its designee may contract with
36 existing child support consultants to provide their current and
37 related services and project management through the life of the
38 child support automation project to help meet legislative
39 timeframes, consistent with the requirements of Article 7 of the
40 California Constitution.

1 (f) Notwithstanding any other provision of law, the procurements
 2 for all design, development, implementation, maintenance, and
 3 operation of the California Child Support Automation System and
 4 any bid protest conducted under this chapter shall be subject to
 5 the following procedures:

6 (1) ~~The Executive Officer of the Franchise Tax Board, or his~~
 7 ~~or her designee, may consider and decide initial protests. A decision~~
 8 ~~regarding initial protests shall be final.~~

9 (2) ~~A contract may be entered into pending a final decision on~~
 10 ~~a protest. The protest shall not prevent the commencement of work~~
 11 ~~in accordance with the terms of the contract awarded.~~

12 (3) ~~Protests shall be limited to participating bidders.~~

13 (4) ~~A protest shall be filed within five days of the posting of the~~
 14 ~~notice of the award. The Department of General Services shall~~
 15 ~~review a protest within seven days of the filing date. If the~~
 16 ~~Department of General Services finds that a protest is clearly~~
 17 ~~insufficient on its face, entirely without merit, or outside the scope~~
 18 ~~of permissible protest, it may make a final disposition of the~~
 19 ~~protest.~~

20 (5) ~~The Director of General Services shall issue a ruling within~~
 21 ~~a period not to exceed 45 days from the date the protest is filed.~~

22 (6) ~~Grounds to protest under this section shall be limited to~~
 23 ~~violations of the solicitation procedures resulting in the protestant's~~
 24 ~~proposal not being selected. These grounds shall be stated in the~~
 25 ~~solicitation document with the protest procedures.~~

26 (7) ~~Any bidder that has filed a protest that is determined by the~~
 27 ~~Department of General Services to be clearly insufficient on its~~
 28 ~~face, entirely without merit, or outside the scope of permissible~~
 29 ~~protest shall not be eligible to participate in solicitations conducted~~
 30 ~~under this section.~~

31 (g) ~~To protect public confidence in the integrity of the~~
 32 ~~procurements described in this section, the State Auditor shall~~
 33 ~~monitor the evaluation and selection process and must certify that~~
 34 ~~the evaluation was based on the evaluation criteria contained in~~
 35 ~~the solicitation document, that the vendor or vendors were chosen~~
 36 ~~according to the selection methodology in the solicitation document~~
 37 ~~and that both of these activities were carried out without bias or~~
 38 ~~favoritism toward any bidder.~~

39 *SEC. 26. Section 10553.15 is added to the Welfare and*
 40 *Institutions Code, to read:*

1 *10553.15. Notwithstanding any other provision of law, the*
2 *director may provide funding to Indian health clinics to provide*
3 *substance abuse and mental health treatment services, and other*
4 *related services authorized under the CalWORKs program to*
5 *CalWORKs applicants and recipients and Tribal Temporary*
6 *Assistance for Needy Families (TANF) applicants and recipients*
7 *living in California.*

8 *SEC. 27. Section 10823 of the Welfare and Institutions Code,*
9 *as amended by Section 22 of Chapter 78 of the Statutes of 2005,*
10 *is amended to read:*

11 10823. (a) (1) The Office of Systems Integration shall
12 implement a statewide automated welfare system for the following
13 public assistance programs:

- 14 (A) The CalWORKs program.
- 15 (B) The Food Stamp Program.
- 16 (C) The Medi-Cal Program.
- 17 (D) The foster care program.
- 18 (E) The refugee program.
- 19 (F) County medical services programs.

20 (2) Statewide implementation of the statewide automated welfare
21 system for the programs listed in paragraph (1) shall be achieved
22 through no more than four county consortia, including the Interim
23 Statewide Automated Welfare System Consortium, and the Los
24 Angeles Eligibility, Automated Determination, Evaluation, and
25 Reporting System.

26 (3) *Notwithstanding paragraph (2), the Office of Systems*
27 *Integration shall migrate the 35 counties that currently use the*
28 *Interim Statewide Automated Welfare System into the C-IV system*
29 *within the following timeline:*

30 (A) *Complete Migration System Test and begin User Acceptance*
31 *Testing on or before June 30, 2009.*

32 (B) *Complete implementation in at least five counties by*
33 *February 28, 2010.*

34 (C) *Complete implementation in at least 14 additional counties*
35 *on or before May 31, 2010.*

36 (D) *Complete implementation in all 35 counties on or before*
37 *August 31, 2010.*

38 (E) *Decommission the Interim Statewide Automated Welfare*
39 *System on or before January 31, 2011.*

1 (b) Nothing in subdivision (a) transfers program policy
2 responsibilities related to the public assistance programs specified
3 in subdivision (a) from the State Department of Social Services
4 or the State Department of Health Services to the Office of Systems
5 Integration.

6 (c) On February 1 of each year, the Office of Systems Integration
7 shall provide an annual report to the appropriate committees of
8 the Legislature on the statewide automated welfare system
9 implemented under this section. The report shall address the
10 progress of state and consortia activities and any significant
11 schedule, budget, or functionality changes in the project.

12 *SEC. 28. Section 11320.32 of the Welfare and Institutions Code*
13 *is amended to read:*

14 11320.32. (a) The department shall administer a voluntary
15 Temporary Assistance Program (TAP) for current and future
16 CalWORKs recipients who meet the exemption criteria for work
17 participation activities set forth in Section 11320.3, and are not
18 single parents who have a child under the age of one year.
19 Temporary Assistance Program recipients shall be entitled to the
20 same assistance payments and other benefits as recipients under
21 the CalWORKs program. The purpose of this program is to provide
22 cash assistance and other benefits to eligible families without any
23 federal restrictions or requirements and without any adverse impact
24 on recipients. The Temporary Assistance Program shall commence
25 no later than April 1, ~~2009~~ 2010.

26 (b) CalWORKs recipients who meet the exemption criteria for
27 work participation activities set forth in subdivision (b) of Section
28 11320.3, and are not single parents with a child under the age of
29 one year, shall have the option of receiving grant payments, child
30 care, and transportation services from the Temporary Assistance
31 Program. The department shall notify all CalWORKs recipients
32 and applicants meeting the exemption criteria specified in
33 subdivision (b) of Section 11320.3, except for single parents with
34 a child under the age of one year, of their option to receive benefits
35 under the Temporary Assistance Program. Absent written
36 indication that these recipients or applicants choose not to receive
37 assistance from the Temporary Assistance Program, the department
38 shall enroll CalWORKs recipients and applicants into the program.
39 However, exempt volunteers shall remain in the CalWORKs
40 program unless they affirmatively indicate, in writing, their interest

1 in enrolling in the Temporary Assistance Program. A Temporary
2 Assistance Program recipient who no longer meets the exemption
3 criteria set forth in Section 11320.3 shall be enrolled in the
4 CalWORKs program.

5 (c) Funding for grant payments, child care, transportation, and
6 eligibility determination activities for families receiving benefits
7 under the Temporary Assistance Program shall be funded with
8 General Fund resources that do not count toward the state's
9 maintenance of effort requirements under clause (i) of subparagraph
10 (B) of paragraph (7) of subdivision (a) of Section 609 of Title 42
11 of the United States Code, up to the caseload level equivalent to
12 the amount of funding provided for this purpose in the annual
13 Budget Act.

14 (d) It is the intent of the Legislature that recipients shall have
15 and maintain access to the hardship exemption and the services
16 necessary to begin and increase participation in welfare-to-work
17 activities, regardless of their county of origin, and that the number
18 of recipients exempt under subdivision (b) of Section 11320.3 not
19 significantly increase due to factors other than changes in caseload
20 characteristics. All relevant state law applicable to CalWORKs
21 recipients shall also apply to families funded under this section.
22 Nothing in this section modifies the criteria for exemption in
23 Section 11320.3.

24 (e) To the extent that this section is inconsistent with federal
25 regulations regarding implementation of the Deficit Reduction Act
26 of 2005, the department may amend the funding structure for
27 exempt families to ensure consistency with these regulations, not
28 later than 30 days after providing written notification to the chair
29 of the Joint Legislative Budget Committee and the chairs of the
30 appropriate policy and fiscal committees of the Legislature.

31 *SEC. 29. Section 11402.6 of the Welfare and Institutions Code*
32 *is amended to read:*

33 11402.6. (a) The federal government has provided the state
34 with the option of including in its state plan children placed in a
35 private facility operated on a for-profit basis.

36 (b) For children for whom the county placing agency has
37 exhausted all other placement options, notwithstanding subdivision
38 (h) of Section 11400 and subject to Section 15200.5, a child who
39 is otherwise eligible for federal financial participation in the
40 AFDC-FC payment shall be eligible for aid under this chapter

1 when the child is placed in a for-profit child care institution and
2 meets all of the following criteria, which shall be clearly
3 documented in the county welfare department case file:

4 (1) The child has extraordinary and unusual special behavioral
5 or medical needs that make the child difficult to place, including,
6 but not limited to, being medically fragile, brittle diabetic, having
7 severe head injuries, a dual diagnosis of mental illness and
8 substance abuse or a dual diagnosis of developmental delay and
9 mental illness.

10 (2) No other comparable private nonprofit facility or public
11 licensed residential care home exists in the state that is willing to
12 accept placement and is capable of meeting the child's
13 extraordinary special needs.

14 (3) The county placing agency has demonstrated that no other
15 alternate placement option exists for the child.

16 (4) The child has a developmental disability and is eligible for
17 both federal AFDC-FC payments and for regional center services.

18 (c) Federal financial participation shall be provided pursuant to
19 Section 11402 for children described in subdivision (a) subject to
20 all of the following conditions, which shall be clearly documented
21 in the county welfare department case file.

22 (1) The county placing agency enters into a performance based
23 placement agreement with the for-profit facility to ensure the
24 facility is providing services to improve the safety, permanency,
25 and well-being outcomes of the placed children pursuant to Section
26 10601.2.

27 (2) The county placing agency will require the facility to ensure
28 placement in the child's community to the degree possible to
29 enhance ongoing connections with the child's family and to
30 promote the establishment of lifelong connections with committed
31 adults.

32 (3) The county placing agency monitors and reviews the
33 facility's outcome performance indicators every six months.

34 (4) In no event shall federal financial participation in this
35 placement exceed a 12-month period.

36 (5) Payments made under this section shall not be made on
37 behalf of any more than five children in a county at any one time.

38 (6) Payments made under this section shall be made pursuant
39 to Sections 4684 and 11464, and only to a group home that is an
40 approved vendor of a regional center.

1 (d) This section shall be implemented only during a federal
2 fiscal year in which the department determines that no restriction
3 on federal matching AFDC-FC payment exists.

4 (e) As used in this section, “child care institution” means a
5 nondetention facility that has been licensed in accordance with the
6 California Community Care Facilities Act, Chapter 3 (commencing
7 with Section 1500) of Division 2 of the Health and Safety Code,
8 and that has a licensed capacity not exceeding 25 children.

9 (f) The county placing agency shall review and report to the
10 juvenile court at every six-month case plan update if this placement
11 remains appropriate and necessary and what the plan is for
12 discharge to a less restrictive placement.

13 (g) *Notwithstanding subdivision (d) or any other provision of*
14 *law, this section shall not be implemented before July 1, 2010.*

15 *SEC. 30. Section 11453 of the Welfare and Institutions Code*
16 *is amended to read:*

17 11453. (a) Except as provided in subdivision (c), the amounts
18 set forth in Section 11452 and subdivision (a) of Section 11450
19 shall be adjusted annually by the department to reflect any increases
20 or decreases in the cost of living. These adjustments shall become
21 effective July 1 of each year, unless otherwise specified by the
22 Legislature. For the 2000–01 fiscal year to the 2003–04 fiscal year,
23 inclusive, these adjustments shall become effective October 1 of
24 each year. The cost-of-living adjustment shall be calculated by the
25 Department of Finance based on the changes in the California
26 Necessities Index, which as used in this section means the weighted
27 average changes for food, clothing, fuel, utilities, rent, and
28 transportation for low-income consumers. The computation of
29 annual adjustments in the California Necessities Index shall be
30 made in accordance with the following steps:

31 (1) The base period expenditure amounts for each expenditure
32 category within the California Necessities Index used to compute
33 the annual grant adjustment are:

34		
35	Food.....	\$ 3,027
36	Clothing (apparel and upkeep).....	406
37	Fuel and other utilities.....	529
38	Rent, residential.....	4,883
39	Transportation.....	1,757
40		<hr/>

1 Total..... \$10,602

2

3 (2) Based on the appropriate components of the Consumer Price
4 Index for All Urban Consumers, as published by the United States
5 Department of Labor, Bureau of Labor Statistics, the percentage
6 change shall be determined for the 12-month period ending with
7 the December preceding the year for which the cost-of-living
8 adjustment will take effect, for each expenditure category specified
9 in subdivision (a) within the following geographical areas: Los
10 Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego,
11 and, to the extent statistically valid information is available from
12 the Bureau of Labor Statistics, additional geographical areas within
13 the state which include not less than 80 percent of recipients of
14 aid under this chapter.

15 (3) Calculate a weighted percentage change for each of the
16 expenditure categories specified in subdivision (a) using the
17 applicable weighting factors for each area used by the State
18 Department of Industrial Relations to calculate the California
19 Consumer Price Index (CCPI).

20 (4) Calculate a category adjustment factor for each expenditure
21 category in subdivision (a) by (1) adding 100 to the applicable
22 weighted percentage change as determined in paragraph (2) and
23 (2) dividing the sum by 100.

24 (5) Determine the expenditure amounts for the current year by
25 multiplying each expenditure amount determined for the prior year
26 by the applicable category adjustment factor determined in
27 paragraph (4).

28 (6) Determine the overall adjustment factor by dividing (1) the
29 sum of the expenditure amounts as determined in paragraph (4)
30 for the current year by (2) the sum of the expenditure amounts as
31 determined in subdivision (d) for the prior year.

32 (b) The overall adjustment factor determined by the preceding
33 computation steps shall be multiplied by the schedules established
34 pursuant to Section 11452 and subdivision (a) of Section 11450
35 as are in effect during the month of June preceding the fiscal year
36 in which the adjustments are to occur and the product rounded to
37 the nearest dollar. The resultant amounts shall constitute the new
38 schedules which shall be filed with the Secretary of State.

39 (c) (1) No adjustment to the maximum aid payment set forth
40 in subdivision (a) of Section 11450 shall be made under this section

1 for the purpose of increasing the benefits under this chapter for
2 the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96,
3 1996–97, and 1997–98 fiscal years, and through October 31, 1998,
4 to reflect any change in the cost of living. For the 1998–99 fiscal
5 year, the cost of living adjustment that would have been provided
6 on July 1, 1998, pursuant to subdivision (a) shall be made on
7 November 1, 1998. No adjustment to the maximum aid payment
8 set forth in subdivision (a) of Section 11450 shall be made under
9 this section for the purpose of increasing the benefits under this
10 chapter for the 2005–06 and 2006–07 fiscal years to reflect any
11 change in the cost-of-living. Elimination of the cost-of-living
12 adjustment pursuant to this paragraph shall satisfy the requirements
13 of Section 11453.05, and no further reduction shall be made
14 pursuant to that section.

15 (2) No adjustment to the minimum basic standard of adequate
16 care set forth in Section 11452 shall be made under this section
17 for the purpose of increasing the benefits under this chapter for
18 the 1990–91 and 1991–92 fiscal years to reflect any change in the
19 cost of living.

20 (3) In any fiscal year commencing with the 2000–01 fiscal year
21 to the 2003–04 fiscal year, inclusive, when there is any increase
22 in tax relief pursuant to the applicable paragraph of subdivision
23 (a) of Section 10754 of the Revenue and Taxation Code, then the
24 increase pursuant to subdivision (a) of this section shall occur. In
25 any fiscal year commencing with the 2000–01 fiscal year to the
26 2003–04 fiscal year, inclusive, when there is no increase in tax
27 relief pursuant to the applicable paragraph of subdivision (a) of
28 Section 10754 of the Revenue and Taxation Code, then any
29 increase pursuant to subdivision (a) of this section shall be
30 suspended.

31 (4) Notwithstanding paragraph (3), an adjustment to the
32 maximum aid payments set forth in subdivision (a) of Section
33 11450 shall be made under this section for the 2002–03 fiscal year,
34 but the adjustment shall become effective June 1, 2003.

35 (5) No adjustment to the maximum aid payment set forth in
36 subdivision (a) of Section 11450 shall be made under this section
37 for the purpose of increasing benefits under this chapter for the
38 2007–08 and 2008–09 fiscal-year years.

39 (d) For the 2004–05 fiscal year, the adjustment to the maximum
40 aid payment set forth in subdivision (a) shall be suspended for

1 three months commencing on the first day of the first month
2 following the effective date of the act adding this subdivision.

3 ~~(e) For the 2008–09 fiscal year, the adjustment to the maximum
4 aid payment set forth in subdivision (a) shall be effective October
5 1, 2008. For the 2009–10 fiscal year, the adjustment to the
6 maximum aid payment set forth in subdivision (a) shall take effect
7 on July 1, 2009.~~

8 ~~(f)~~

9 (e) Adjustments for subsequent fiscal years pursuant to this
10 section shall not include any adjustments for any fiscal year in
11 which the cost of living was suspended pursuant to subdivision
12 (c).

13 *SEC. 31. Section 12201 of the Welfare and Institutions Code*
14 *is amended to read:*

15 12201. (a) Except as provided in subdivision (d), the payment
16 schedules set forth in Section 12200 shall be adjusted annually to
17 reflect any increases or decreases in the cost of living. Except as
18 provided in subdivision (e), these adjustments shall become
19 effective January 1 of each year. The cost-of-living adjustment
20 shall be based on the changes in the California Necessities Index,
21 which as used in this section shall be the weighted average of
22 changes for food, clothing, fuel, utilities, rent, and transportation
23 for low-income consumers. The computation of annual adjustments
24 in the California Necessities Index shall be made in accordance
25 with the following steps:

26 (1) The base period expenditure amounts for each expenditure
27 category within the California Necessities Index used to compute
28 the annual grant adjustment are:

29		
30	Food.....	\$ 3,027
31	Clothing (apparel and upkeep).....	406
32	Fuel and other utilities.....	529
33	Rent, residential.....	4,883
34	Transportation.....	1,757
35		<hr/>
36	Total.....	\$10,602
37		

38 (2) Based on the appropriate components of the Consumer Price
39 Index for All Urban Consumers, as published by the United States
40 Department of Labor, Bureau of Labor Statistics, the percentage

1 change shall be determined for the 12-month period which ends
2 12 months prior to the January in which the cost-of-living
3 adjustment will take effect, for each expenditure category specified
4 in paragraph (1) within the following geographical areas: Los
5 Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego,
6 and, to the extent statistically valid information is available from
7 the Bureau of Labor Statistics, additional geographical areas within
8 the state which include not less than 80 percent of recipients of
9 aid under this chapter.

10 (3) Calculate a weighted percentage change for each of the
11 expenditure categories specified in subdivision (a) using the
12 applicable weighting factors for each area used by the State
13 Department of Industrial Relations to calculate the California
14 Consumer Price Index (CCPI).

15 (4) Calculate a category adjustment factor for each expenditure
16 category in paragraph (1) by (1) adding 100 to the applicable
17 weighted percentage change as determined in paragraph (2) and
18 (2) dividing the sum by 100.

19 (5) Determine the expenditure amounts for the current year by
20 multiplying each expenditure amount determined for the prior year
21 by the applicable category adjustment factor determined in
22 paragraph (4).

23 (6) Determine the overall adjustment factor by dividing (1) the
24 sum of the expenditure amounts as determined in paragraph (4)
25 for the current year by (2) the sum of the expenditure amounts as
26 determined in paragraph (4) for the prior year.

27 (b) The overall adjustment factor determined by the preceding
28 computational steps shall be multiplied by the payment schedules
29 established pursuant to Section 12200 as are in effect during the
30 month of December preceding the calendar year in which the
31 adjustments are to occur, and the product rounded to the nearest
32 dollar. The resultant amounts shall constitute the new schedules
33 for the categories given under subdivisions (a), (b), (c), (d), (e),
34 (f), and (g) of Section 12200, and shall be filed with the Secretary
35 of State. The amount as set forth in subdivision (h) of Section
36 12200 shall be adjusted annually pursuant to this section in the
37 event that the secretary agrees to administer payment under that
38 subdivision. The payment schedule for subdivision (i) of Section
39 12200 shall be computed as specified, based on the new payment
40 schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

1 (c) The department shall adjust any amounts of aid under this
2 chapter to insure that the minimum level required by the Social
3 Security Act in order to maintain eligibility for funds under Title
4 XIX of that act is met.

5 (d) (1) No adjustment shall be made under this section for the
6 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 2004, 2006 ~~and~~
7 ~~2007, 2007, 2008, and 2009~~ calendar years to reflect any change
8 in the cost of living. Elimination of the cost-of-living adjustment
9 pursuant to this paragraph shall satisfy the requirements of Section
10 12201.05, and no further reduction shall be made pursuant to that
11 section.

12 (2) Any cost-of-living adjustment granted under this section for
13 any calendar year shall not include adjustments for any calendar
14 year in which the cost of living was suspended pursuant to
15 paragraph (1).

16 (e) For the 2003 calendar year, the adjustment required by this
17 section shall become effective June 1, 2003.

18 (f) For the 2005 calendar year, the adjustment required by this
19 section shall become effective April 1, 2005.

20 (g) (1) ~~For the 2008 calendar year, the annual adjustment~~
21 ~~required by this section shall be effective October 1, 2008.~~

22 ~~(2) Commencing with the 2009 2010 calendar year and in each~~
23 ~~calendar year thereafter, the annual adjustment required by this~~
24 ~~section shall be effective June 1 of that calendar year.~~

25 ~~(3)~~

26 (2) Notwithstanding paragraph~~(2)~~ (1), the pass along of federal
27 benefits provided for in Section 12201.05 shall be effective on
28 January 1 of each calendar year.

29 *SEC. 32. Section 12305.82 of the Welfare and Institutions Code*
30 *is amended to read:*

31 12305.82. (a) In addition to its existing authority under the
32 Medi-Cal program, the State Department of Health Care Services
33 shall have the authority to investigate fraud in the provision or
34 receipt of supportive services. ~~Counties Except as provided in~~
35 ~~subdivision (c), a county shall refer instances of suspected fraud~~
36 ~~in the provision or receipt of supportive services to the State~~
37 ~~Department of Health Care Services, which shall investigate all~~
38 ~~suspected fraud. The department, the State Department of Health~~
39 ~~Care Services, and county quality assurance staff shall work~~
40 ~~together as appropriate to coordinate activities to detect and prevent~~

1 fraud by supportive services providers and recipients in accordance
2 with federal and state laws and regulations, including applicable
3 due process requirements, to take appropriate administrative action
4 relating to suspected fraud in the provision or receipt of supportive
5 services, and to refer suspected criminal offenses to appropriate
6 law enforcement agencies for prosecution.

7 (b) If the State Department of Health *Care* Services concludes
8 that there is reliable evidence that a supportive services provider
9 has engaged in fraud in connection with the provision or receipt
10 of supportive services, the State Department of Health *Care*
11 Services shall notify the department, the county, and the county's
12 public authority or nonprofit consortium, if any, of that conclusion.

13 (c) *Notwithstanding any other provision of law, a county may*
14 *investigate suspected fraud in connection with the provision or*
15 *receipt of supportive services, with respect to an overpayment of*
16 *five hundred dollars (\$500) or less.*

17 *SEC. 33. Section 12317 of the Welfare and Institutions Code*
18 *is amended to read:*

19 12317. (a) The State Department of Social Services shall be
20 responsible for procuring and implementing a new Case
21 Management Information and Payroll System (CMIPS) for the
22 In-Home Supportive Services Program and Personal Care Services
23 Program (IHSS/PCSP). This section shall not be interpreted to
24 transfer any of the IHSS/PCSP policy responsibilities from the
25 State Department of Social Services or the State Department of
26 Health *Care* Services.

27 (b) At a minimum, the new system shall provide case
28 management, payroll, and management information in order to
29 support the IHSS/PCSP, and shall do all of the following:

30 (1) Provide current and accurate information in order to manage
31 the IHSS/PCSP caseload.

32 (2) Calculate accurate wage and benefit deductions.

33 (3) Provide management information to monitor and evaluate
34 the IHSS/PCSP.

35 (4) Coordinate benefits information and processing with the
36 California Medicaid Management Information System.

37 (c) The new system shall be consistent with current state and
38 federal laws, shall incorporate technology that can be readily
39 enhanced and modernized for the expected life of the system, and,

1 to the extent possible, shall employ open architectures and
2 standards.

3 (d) By August 31, 2004, the State Department of Social Services
4 shall begin a fair and open competitive procurement for the new
5 CMIPS. All state agencies shall cooperate with the State
6 Department of Social Services and the California Health and
7 Human Services Agency Data Center to expedite the procurement,
8 design, development, implementation, and operation of the new
9 CMIPS.

10 (e) The State Department of Social Services, with any necessary
11 assistance from the State Department of Health Care Services,
12 shall seek all federal approvals and waivers necessary to secure
13 federal financial participation and system design approval of the
14 new system.

15 (f) *The new CMIPS shall include features to strengthen fraud*
16 *prevention and detection, as well as to reduce overpayments.*
17 *Program requirements shall include, but shall not be limited to,*
18 *the ability to readily identify out-of-state providers, recipient*
19 *hospital stays that are five days or longer, and excessive hours*
20 *paid to a single provider, and to match recipient information with*
21 *death reports. This functionality shall be available by April 1,*
22 *2010, and implemented statewide by July 1, 2011.*

23 SEC. 34. *Section 14021.6 of the Welfare and Institutions Code*
24 *is amended to read:*

25 14021.6. (a) For the fiscal years prior to fiscal year 2004–05,
26 and subject to the requirements of federal law, the maximum
27 allowable rates for the Medi-Cal Drug Treatment Program shall
28 be determined by computing the median rate from available cost
29 data by modality from the fiscal year that is two years prior to the
30 year for which the rate is being established.

31 (b) (1) For the fiscal year 2007–08, and subsequent fiscal years,
32 and subject to the requirements of federal law, the maximum
33 allowable rates for the Medi-Cal Drug Treatment Program shall
34 be determined by computing the median rate from the most recently
35 completed cost reports, by specific service codes that are consistent
36 with the federal Health Insurance Portability and Accountability
37 Act of 1996 (42 U.S.C. Sec. 300gg).

38 (2) For the fiscal years 2005–06 and 2006–07, if the State
39 Department of Health Care Services and the State Department of
40 Alcohol and Drug Programs determine that reasonably reliable

1 and complete cost report data are available, the methodology
2 specified in this subdivision shall be applied to either or both of
3 those years. If reasonably reliable and complete cost report data
4 are not available, the State Department of Health *Care* Services
5 and the *State* Department of Alcohol and Drug Programs shall
6 establish rates for either or both of those years based upon the
7 usual, customary, and reasonable charge for the services to be
8 provided, as these two departments may determine in their
9 discretion. This subdivision is not intended to modify subdivision
10 (k) of Section 11758.46 of the Health and Safety Code, that
11 requires certain providers to submit performance reports.

12 (c) Notwithstanding subdivision (a), for the 1996–97 fiscal year,
13 the rates for nonperinatal outpatient methadone maintenance
14 services shall be set at the rate established for the 1995–96 fiscal
15 year.

16 (d) Notwithstanding subdivision (a), the maximum allowable
17 rate for group outpatient drug free services shall be set on a per
18 person basis. A group shall consist of a minimum of four and a
19 maximum of 10 individuals, at least one of which shall be a
20 Medi-Cal eligible beneficiary.

21 (e) The department shall develop individual and group rates for
22 extensive counseling for outpatient drug free treatment, based on
23 a 50-minute individual or a 90-minute group hour, not to exceed
24 the total rate established for subdivision (d).

25 (f) The department may adopt regulations as necessary to
26 implement subdivisions (a), (b), and (c), or to implement cost
27 containment procedures. These regulations may be adopted as
28 emergency regulations in accordance with Chapter 3.5
29 (commencing with Section 11340) of Part 1 of Division 3 of Title
30 2 of the Government Code. The adoption of these emergency
31 regulations shall be deemed an emergency necessary for the
32 immediate preservation of the public peace, health and safety, or
33 general welfare.

34 *SEC. 35. Section 14124.93 of the Welfare and Institutions Code*
35 *is amended to read:*

36 14124.93. (a) The Department of Child Support Services shall
37 provide payments to the local child support agency of fifty dollars
38 (\$50) per case for obtaining third-party health coverage or
39 insurance of beneficiaries, to the extent that funds are appropriated
40 in the annual Budget Act.

1 (b) A county shall be eligible for a payment if the county obtains
 2 third-party health coverage or insurance for applicants or recipients
 3 of Title IV-D services not previously covered, or for whom
 4 coverage has lapsed, and the county provides all required
 5 information on a form approved by both the Department of Child
 6 Support Services and the State Department of Health Care Services.

7 (c) Payments to the local child support agency under this section
 8 shall be suspended for the 2003–04, 2004–05, 2005–06, 2006–07,
 9 ~~and~~ 2007–08, 2008–09, 2009–10, 2010–11, and 2011–12 fiscal
 10 years.

11 *SEC. 36. Chapter 10.1 (commencing with Section 15525) is*
 12 *added to Part 3 of Division 9 of the Welfare and Institutions Code,*
 13 *to read:*

14
 15 *CHAPTER 10.1. WORK INCENTIVE NUTRITIONAL SUPPLEMENT*

16
 17 *15525. (a) The State Department of Social Services shall*
 18 *establish a Work Incentive Nutritional Supplement (WINS) program*
 19 *pursuant to this section.*

20 *(b) Under the WINS program established pursuant to subdivision*
 21 *(a), each county shall provide a forty dollar (\$40) per month*
 22 *additional food assistance benefit for each eligible food stamp*
 23 *household, as defined in subdivision (d).*

24 *(c) The state shall pay to the counties 100 percent of the cost*
 25 *of WINS benefits, using funds that qualify for the state’s*
 26 *maintenance of effort requirements under Section 609(a)(7)(B)(i)*
 27 *of Title 42 of the United States Code.*

28 *(d) For purposes of this section, an “eligible food stamp*
 29 *household” is a household that meets all of the following criteria:*

30 *(1) Receives benefits pursuant to Chapter 10 (commencing with*
 31 *Section 18900) of Part 6.*

32 *(2) Has no household member receiving CalWORKs benefits*
 33 *pursuant to Chapter 2 (commencing with Section 11200).*

34 *(3) Contains at least one child under 18 years of age, unless*
 35 *the household contains a child who meets the requirements of*
 36 *Section 11253.*

37 *(4) Has at least one parent or caretaker relative determined to*
 38 *be “work eligible” as defined in Section 261.2(n) of Title 45 of*
 39 *the Code of Federal Regulations and Section 607 of Title 42 of*
 40 *the United States Code.*

1 (5) Meets the federal work participation hours requirement set
2 forth in Section 607 of Title 42 of the United States Code for
3 subsidized or unsubsidized employment, and provides
4 documentation that the household has met the federal work
5 requirements.

6 (e) (1) In accordance with federal law, federal food stamp
7 benefits (Chapter 10 (commencing with Section 18900) of Part 6),
8 federal supplemental security income benefits, state supplemental
9 security program benefits, public social services, as defined in
10 Section 10051, and county aid benefits (Part 5 (commencing with
11 Section 17000)), shall not be reduced as a consequence of the
12 receipt of the WINS benefit paid under this chapter.

13 (2) Benefits paid under this chapter shall not count toward the
14 federal 60-month time limit on aid as set forth in Section
15 608(a)(7)(A) of Title 42 of the United States Code. Payment of
16 WINS benefits shall not commence before October 1, 2009, and
17 full implementation of the program shall be achieved on or before
18 April 1, 2010.

19 (f) (1) Notwithstanding the rulemaking provisions of the
20 Administrative Procedure Act (Chapter 3.5 (commencing with
21 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
22 Code and Section 10554), until emergency regulations are filed
23 with the Secretary of State pursuant to paragraph (2), the State
24 Department of Social Services may implement this section through
25 all-county letters or similar instructions from the director. The
26 director may provide for individual county phase-in of this section
27 to allow for the orderly implementation based upon standards
28 established by the director, including the operational needs and
29 requirements of the counties. Implementation of the automation
30 process changes shall include issuance of an all-county letter or
31 similar instructions to counties by March 1, 2009.

32 (2) The department may adopt regulations to implement this
33 chapter. The initial adoption, amendment, or repeal of a regulation
34 authorized by this section is deemed to address an emergency, for
35 purposes of Sections 11346.1 and 11349.6 of the Government
36 Code, and the department is hereby exempted for that purpose
37 from the requirements of subdivision (b) of Section 11346.1 of the
38 Government Code. After the initial adoption, amendment, or repeal
39 of an emergency regulation pursuant to this paragraph, the
40 department may request approval from the Office of Administrative

1 *Law to readopt the regulation as an emergency regulation pursuant*
2 *to Section 11346.1 of the Government Code.*

3 *(g) (1) The department shall not fully implement this section*
4 *until the department convenes a workgroup of advocates,*
5 *legislative staff, county representatives, and other stakeholders to*
6 *consider the progress of the WINS automation effort in tandem*
7 *with a pre-assistance employment readiness system (PAERS)*
8 *program and any other program options that may provide offsetting*
9 *benefits to the caseload reduction credit in the CalWORKs*
10 *program. The department shall convene this workgroup on or*
11 *before December 1, 2008.*

12 *(2) A PAERS program shall be considered in light of current*
13 *and potential federal Temporary Assistance for Needy Families*
14 *(TANF) statutes and regulations and how other states with*
15 *pre-assistance or other caseload offset options are responding to*
16 *federal changes.*

17 *(3) The consideration of program options shall include, but not*
18 *necessarily be limited to, the potential impacts on helping clients*
19 *to obtain self-sufficiency, increasing the federal work participation*
20 *rate, increasing the caseload reduction credit, requirements and*
21 *efficiency of county administration, and the well-being of*
22 *CalWORKs recipients.*

23 *(4) If the workgroup concludes that adopting a PAERS program*
24 *or other program option pursuant to this section would, on balance,*
25 *be favorable for California and its CalWORKs recipients, the*
26 *department, in consultation with the workgroup, shall prepare a*
27 *proposal by March 31, 2009, for consideration during the regular*
28 *legislative budget subcommittee process in 2009.*

29 *(5) To meet the requirements of this subdivision, the department*
30 *may use its TANF reauthorization workgroups.*

31 *SEC. 37. Section 18939 of the Welfare and Institutions Code*
32 *is amended to read:*

33 *18939. (a) Any person who is found to be eligible for federally*
34 *funded SSI by the department shall be required to apply for SSI*
35 *benefits. An individual may continue to receive benefits under this*
36 *article if he or she fully cooperates in the application and*
37 *administrative appeal process of the Social Security Administration.*
38 *An individual shall continue to be eligible to receive benefits under*
39 *this article if he or she receives an unfavorable decision from the*
40 *Social Security Administration.*

1 (b) (1) The State Department of Social Services shall require
2 counties with a base caseload of recipients of aid under this chapter
3 of 70 or more to establish an advocacy program to assist applicants
4 and recipients of aid under this chapter in the application process
5 for the SSI program. The department shall encourage counties with
6 a base caseload of recipients of aid under this chapter of 69 or less
7 to establish a similar advocacy program. Counties may, at their
8 option, contract to provide any or all of the required advocacy
9 services.

10 (2) The department shall provide assistance to counties in their
11 efforts to implement an SSI advocacy program (SSIAP) for
12 applicants and recipients of aid under this chapter.

13 (c) The State Department of Social Services shall ensure that
14 its Disability Evaluation Division (DED) expedites the disability
15 evaluations for applicants and recipients of aid under this chapter
16 by utilizing its existing case records sharing procedures to ensure
17 that information from previous DED evaluations for the Medi-Cal
18 program are shared expeditiously with the federal component of
19 the division that is adjudicating the SSI disability application.

20 (d) The State Department of Social Services shall reimburse
21 counties for legal fees incurred by attorneys or other authorized
22 representatives during the appeals phase of the SSI application
23 process only when the county demonstrates that the legal
24 representative successfully secures approval of SSI benefits. The
25 legal fees for each case shall not exceed twice the difference
26 between the maximum monthly individual payment under this
27 chapter and the maximum monthly SSP payment.

28 (e) The department shall report to the Legislature, by July 1,
29 2007, on the outcomes of county SSI advocacy programs, including
30 the numbers of cases that transitioned to SSI and the amount of
31 savings realized through the transfers.

32 (f) Subdivisions (b) to (e), inclusive, of this section shall become
33 inoperative on July 1, ~~2009~~ 2011.

34 *SEC. 38. (a) On or before January 10, 2009, the Department*
35 *of Child Support Services shall provide to the Legislature both of*
36 *the following:*

37 *(1) More comprehensive data from the state hearing pilot project*
38 *that demonstrates that the pilot project has reduced state hearings.*

39 *(2) A breakdown of how the pilot project's revised hearing*
40 *process results in the estimated savings to state hearing costs.*

1 (b) On or before February 1, 2009, the Department of Child
2 Support Services shall provide the appropriate committees of the
3 Legislature with trailer bill language to codify the new state
4 hearing process.

5 SEC. 39. Clause (ii) of subparagraph (B) of paragraph (1) of
6 subdivision (a) of Section 1534 of, paragraph (2) of subdivision
7 (c) of Section 1569.33 of, paragraph (2) of subdivision (c) of
8 Section 1597.09 of, and paragraph (2) of subdivision (c) of Section
9 1597.55a of, the Health and Safety Code shall be suspended for
10 the 2008–09 and 2009–10 fiscal years. The State Department of
11 Social Services shall submit trailer bill language to the Legislature
12 on or before February 1, 2010, that reflects appropriate indicators
13 to trigger an increase in the number of facilities for which the
14 department conducts annual unannounced random sample visits.
15 The department shall work with legislative staff, the Legislative
16 Analyst’s Office, and interested stakeholders to develop the
17 indicators. The department shall provide an update to the
18 Legislature on its progress pursuant to this section at the 2009–10
19 budget hearings.

20 SEC. 40. The State Department of Social Services shall do both
21 of the following:

22 (a) Meet with stakeholders prior to legislative budget
23 subcommittee hearings in 2009 to determine ways that the process
24 for the Independent Adoptions Program can be simplified and
25 streamlined, including whether the fee amounts are appropriate,
26 and provide an update on those discussions, with any
27 recommendations from the department, during the 2009
28 subcommittee hearings.

29 (b) Provide an update during the 2009 legislative budget
30 subcommittee hearings regarding the degree to which fee
31 collections have improved as a result of the statutory changes
32 made by Section 8808 of the Family Code, as added by this act,
33 and the impact of the new fees on the number of independent
34 adoptions.

35 SEC. 41. (a) Notwithstanding the rulemaking provisions of
36 the Administrative Procedure Act (Chapter 3.5 (commencing with
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
38 Code and Section 10554), until emergency regulations are filed
39 with the Secretary of State pursuant to subdivision (b), the State
40 Department of Social Services may implement Sections 8807, 8808,

1 8810, and 8820 of the Family Code, as amended and added by
2 this act through all-county letters or similar instructions from the
3 Director of Social Services.

4 (b) The department may adopt regulations to implement Sections
5 8807, 8808, 8810, and 8820 of the Family Code, as amended and
6 added by this act. The initial adoption, amendment, or repeal of
7 a regulation authorized by this section is deemed to address an
8 emergency, for purposes of Sections 11346.1 and 11349.6 of the
9 Government Code, and the department is hereby exempted for that
10 purpose from the requirements of subdivision (b) of Section
11 11346.1 of the Government Code. After the initial adoption,
12 amendment, or repeal of an emergency regulation pursuant to this
13 section, the department may request approval from the Office of
14 Administrative Law to readopt the regulation as an emergency
15 regulation pursuant to Section 11346.1 of the Government Code.

16 SEC. 42. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.

21 SEC. 43. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 In order to implement the necessary statutory changes to
26 implement the Budget Act of 2008 at the earliest possible time, it
27 is necessary for this act to take effect immediately.

28 SECTION 1. (a) ~~The Legislature finds and declares all of the~~
29 ~~following:~~

30 ~~(1) Alternative payment programs have many variable costs~~
31 ~~that make maintaining a prudent reserve of funds vital to the overall~~
32 ~~fiscal health of the program.~~

33 ~~(2) Allowing child care contractors to maintain a fiscally prudent~~
34 ~~reserve will extend the life of funds appropriated for child care~~
35 ~~purposes.~~

36 ~~(3) Every other year the state is required by federal law to~~
37 ~~conduct a regional market rate (RMR) survey. If the RMR~~
38 ~~maximums are raised significantly in a county in which an~~
39 ~~alternative payment program is located, a child care contractor's~~
40 ~~costs can be increased to a higher level than anticipated. That type~~

1 of increase is a major concern for high-cost counties that, as a
2 result of RMR surveys, have been forced to stop providing services
3 to some children due to a lack of funds.

4 (4) ~~Maintaining a prudent reserve account will provide a safety
5 net for child care contractors that do not know the exact cost of
6 care for each enrolled child due to changes in the parent fee
7 schedule, the type of provider, and the attrition rate.~~

8 (b) ~~It is the intent of the Legislature in enacting this act to do
9 all of the following:~~

10 (1) ~~Establish reserve funds for child care and development
11 contractors to ensure the continuation of approved early childhood
12 development and educational services for working poor families
13 and children.~~

14 (2) ~~Allow alternative payment programs to maximize services
15 for working poor families who are currently placed on the
16 countywide centralized eligibility list.~~

17 (3) ~~Continue funding child care contractors as changes in the
18 California regional market rates are implemented.~~

19 (4) ~~Ensure that all earned family support and administration
20 funds stay within the community serviced by an alternative
21 payment program for the purpose of supporting child care and
22 early education programs that serve the children of working poor
23 families.~~

24 (5) ~~Allow the State Department of Education to disburse
25 contracts that provide alternative payment program agencies with
26 the resources to ensure structural integrity, the provision of
27 adequate services, and the ability to maintain a baseline budget.~~

28 SEC. 2. ~~Section 8223 of the Education Code is amended to
29 read:~~

30 8223. (a) ~~The reimbursement for alternative payment programs
31 shall include the cost of child care paid to child care providers plus
32 the administrative and support services costs of the alternative
33 payment program. The total cost for administration and support
34 services shall not exceed an amount equal to 20 percent of the total
35 contract amount. The administrative costs shall not exceed the
36 costs allowable for administration under federal requirements.~~

37 (b) ~~For purposes of this section, “total contract amount” means
38 either of the following, whichever is greater:~~

39 (1) ~~The initial maximum reimbursable amount.~~

1 ~~(2) The total of direct payments to providers, including, but not~~
2 ~~limited to, family fees for certified children, interest earned on~~
3 ~~advanced contract funds, and reimbursable administrative and~~
4 ~~support services costs.~~

5 ~~SEC. 3. Section 8450 of the Education Code is amended to~~
6 ~~read:~~

7 ~~8450. (a) All child development contractors are encouraged~~
8 ~~to develop and maintain a reserve within the child development~~
9 ~~fund, derived from earned but unexpended funds. Child~~
10 ~~development contractors may retain all earned funds. For purpose~~
11 ~~of this section, "earned funds" means funds for which the required~~
12 ~~number of eligible service units have been provided.~~

13 ~~(b) Earned funds may not be expended for any activities~~
14 ~~proscribed by Section 8406.7. Earned but unexpended funds shall~~
15 ~~remain in the contractor's reserve account within the child~~
16 ~~development fund and shall be expended only by direct service~~
17 ~~child development programs that are funded under contract with~~
18 ~~the department.~~

19 ~~(c) Notwithstanding subdivisions (a) and (b), a contractor may~~
20 ~~retain a reserve fund balance for a resource and referral program,~~
21 ~~separate from the balance retained pursuant to subdivision (b), not~~
22 ~~to exceed three percent of the contract amount. Funds from this~~
23 ~~reserve account may be expended only by resource and referral~~
24 ~~programs that are funded under contract with the department.~~

25 ~~(d) Notwithstanding subdivisions (a) and (b), a contractor may~~
26 ~~retain a reserve fund for alternative payment model and certificate~~
27 ~~child care contracts, separate from the reserve fund retained~~
28 ~~pursuant to subdivisions (b) and (c). Funds from this reserve~~
29 ~~account may be expended only by alternative payment model and~~
30 ~~certificate child care programs that are funded under contract with~~
31 ~~the department. The reserve amount allowed by this section shall~~
32 ~~not exceed three percent of the sum of the parts of each contract~~
33 ~~to which that contractor is a party that is allowed for administration~~
34 ~~pursuant to Section 8276.7 and that is allowed for supportive~~
35 ~~services pursuant to the provisions of the contract.~~

36 ~~(e) Each contractor's audit shall identify funds earned by the~~
37 ~~contractor for each contract through the provision of contracted~~
38 ~~services in excess of funds expended.~~

- 1 ~~(f) Interest earned on reserve funds shall be included in the fund~~
2 ~~balance of the reserve. The reserve fund shall be maintained in an~~
3 ~~interest-bearing account.~~
- 4 ~~(g) Moneys in a contractor's reserve fund may be used only for~~
5 ~~expenses that are reasonable and necessary costs as defined in~~
6 ~~subdivision (n) of Section 8208.~~
- 7 ~~(h) A reserve fund balance in excess of the amount authorized~~
8 ~~pursuant to subdivisions (c) and (d) shall be returned to the~~
9 ~~department pursuant to procedures established by the department~~
10 ~~and reappropriated as second-year funds consistent with Section~~
11 ~~8278.~~
- 12 ~~(i) Upon termination of all child development contracts between~~
13 ~~a contractor and the department, all moneys in a contractor's~~
14 ~~reserve fund shall be returned to the department pursuant to~~
15 ~~procedures established by the department, and reappropriated as~~
16 ~~second-year funds consistent with Section 8278.~~
- 17 ~~(j) Expenditures from, additions to, and balances in the reserve~~
18 ~~fund shall be included in the agency's annual financial statements~~
19 ~~and audit.~~